

111TH CONGRESS  
2D SESSION

# H. R. 4868

To prevent the loss of affordable housing dwelling units in the United States.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2010

Mr. FRANK of Massachusetts (for himself, Ms. WATERS, Mr. GUTIERREZ, Ms. VELÁZQUEZ, Mr. CAPUANO, Mr. HINOJOSA, Mr. BACA, Mr. LYNCH, Mr. AL GREEN of Texas, Ms. KILROY, Mr. HIMES, Ms. CLARKE, and Mr. DELAHUNT) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on the Budget and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To prevent the loss of affordable housing dwelling units  
in the United States.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Housing Preservation and Tenant Protection Act of  
6       2010”.

7       (b) TABLE OF CONTENTS.—The table of contents for  
8       this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Implementation.
- Sec. 3. Budget treatment.

#### TITLE I—PRESERVATION OF FEDERALLY FINANCED AND STATE-FINANCED AFFORDABLE HOUSING AT RISK OF CONVERSION TO MARKET-RATE HOUSING

- Sec. 101. Conversion of rent supplement and RAP contracts to project-based rental assistance under section 8.
- Sec. 102. Preservation of properties with expiring use restrictions.
- Sec. 103. Enhanced voucher assistance and preservation project-based section 8 assistance for State-financed affordable housing.
- Sec. 104. Project-based preservation assistance.
- Sec. 105. Preservation of State-financed affordable housing.
- Sec. 106. Preservation exchange program.
- Sec. 107. Federal first right of refusal.
- Sec. 108. Amendment to Low-Income Housing Preservation and Resident Homeownership Act of 1990.
- Sec. 109. Preservation of HUD-held and HUD-owned buildings.
- Sec. 110. Authority for HUD to assign flexible subsidy loans.
- Sec. 111. Use of existing section 8 funds to preserve and revitalize affordable housing.
- Sec. 112. Authority for Ginnie Mae to securitize FHA risk-sharing mortgages.

#### TITLE II—RESTORATION OF HOUSING AT RISK OF LOSS DUE TO DETERIORATION

- Sec. 201. Authority to transfer rental assistance to other properties.
- Sec. 202. Building transfers: requirements for purchasers of FHA insured projects and section 8 projects.
- Sec. 203. Use of interest reduction payments for rehabilitation grants.
- Sec. 204. Clarification of budget-based rent increases for rehabilitated projects.
- Sec. 205. Interest reduction payments for section 236 projects experiencing a reduction of units.

#### TITLE III—PROTECTION OF RESIDENTS

- Sec. 301. Tenant protection voucher to replace lost subsidized units on 1-for-1 basis.
- Sec. 302. Maintenance of housing.
- Sec. 303. Resident enforcement of public housing agency or project owner agreements with HUD.
- Sec. 304. Resident access to building information.

#### TITLE IV—PRESERVATION OF TROUBLED PROJECTS FACING FORECLOSURE

- Sec. 401. Maintaining affordability through escrowing of rental assistance.
- Sec. 402. Multifamily housing mortgage foreclosure.
- Sec. 403. Building acquisition: valuation of physically distressed properties sold by HUD.
- Sec. 404. Investment through up-front grants from General Insurance Fund.
- Sec. 405. Maintaining project-based assistance for projects disposed of by HUD.
- Sec. 406. Correcting harm caused by late subsidy payments.

## TITLE V—INCENTIVES UNDER MAHRA FOR OWNERS TO MAINTAIN HOUSING AFFORDABILITY

- Sec. 501. Extension of mark-to-market program.
- Sec. 502. Maintaining affordability in preservation project transactions.
- Sec. 503. Encouraging continued participation in assisted housing programs.
- Sec. 504. Prepayment of FHA mortgages on multifamily housing.
- Sec. 505. Period of eligibility for nonprofit debt relief.
- Sec. 506. Acquisition of restructured projects by nonprofit organizations.
- Sec. 507. Rent adjustments upon subsequent renewals of section 8 contracts.
- Sec. 508. Budget-based rent adjustments.
- Sec. 509. Independent appraisal requirement in cases of divergent rent studies.
- Sec. 510. Extension of housing assistance payment contract.
- Sec. 511. Otherwise eligible projects.
- Sec. 512. Exception rents.
- Sec. 513. Disaster-damaged eligible projects.
- Sec. 514. Funding for tenant and other participation and capacity building.

## TITLE VI—PRESERVATION DATABASE

- Sec. 601. Preservation database.

## TITLE VII—SECTION 202 SUPPORTIVE HOUSING FOR THE ELDERLY

- Sec. 701. Short title and table of contents.

### Subtitle A—New Construction Reforms

- Sec. 711. Project rental assistance.
- Sec. 712. Selection criteria.
- Sec. 713. Development cost limitations.
- Sec. 714. Owner deposits.
- Sec. 715. Definition of private nonprofit organization.
- Sec. 716. Preferences for homeless elderly.
- Sec. 717. Nonmetropolitan allocation.

### Subtitle B—Refinancing

- Sec. 721. Approval of prepayment of debt.
- Sec. 722. Sources of refinancing.
- Sec. 723. Use of unexpended amounts.
- Sec. 724. Use of project residual receipts.
- Sec. 725. Additional provisions.

### Subtitle C—Assisted Living Facilities

- Sec. 731. Definition of assisted living facility.
- Sec. 732. Monthly assistance payment under rental assistance.

### Subtitle D—National Senior Housing Clearinghouse

- Sec. 741. National senior housing clearinghouse.

## TITLE VIII—RURAL HOUSING PRESERVATION

- Sec. 801. Short title.
- Sec. 802. Preservation of multifamily housing.
- Sec. 803. Rural preservation and rural tenant protection vouchers.

Sec. 804. Tenant participation.  
Sec. 805. Priority for financing.  
Sec. 806. Conforming amendment.  
Sec. 807. Regulations.

1   **SEC. 2. IMPLEMENTATION.**

2           The Secretary of Housing and Urban Development  
3   and the Secretary of Agriculture, as applicable, shall by  
4   notice establish any additional requirements that may be  
5   necessary to immediately, except as specifically provided  
6   otherwise, carry out the provisions of this Act. Such notice  
7   shall take effect upon issuance.

8   **SEC. 3. BUDGET TREATMENT.**

9           The budgetary effects of this Act, for the purpose of  
10   complying with the Statutory Pay-As-You-Go Act of 2010,  
11   shall be determined by reference to the latest statement  
12   titled “Budgetary Effects of PAYGO Legislation” for this  
13   Act, submitted for printing in the Congressional Record  
14   by the Chairman of the Committee on the Budget of the  
15   House of Representatives, provided that such statement  
16   has been submitted prior to the vote on passage.

1 **TITLE I—PRESERVATION OF**  
 2 **FEDERALLY FINANCED AND**  
 3 **STATE-FINANCED AFFORD-**  
 4 **ABLE HOUSING AT RISK OF**  
 5 **CONVERSION TO MARKET-**  
 6 **RATE HOUSING**

7 **SEC. 101. CONVERSION OF RENT SUPPLEMENT AND RAP**  
 8 **CONTRACTS TO PROJECT-BASED RENTAL AS-**  
 9 **SISTANCE UNDER SECTION 8.**

10 (a) **CONVERSION.**—Notwithstanding any other provi-  
 11 sion of law and subject to the availability of appropria-  
 12 tions, the Secretary of Housing and Urban Development  
 13 shall, at the request of a project owner with a contract  
 14 under section 101 of the Housing and Urban Development  
 15 Act of 1965 (12 U.S.C. 1701s) or a contract under section  
 16 236(f)(2) of the National Housing Act (12 U.S.C. 1715z–  
 17 1(f)(2)), submitted during the 12-month period beginning  
 18 on the date of the enactment of this Act, convert such  
 19 contract to project-based assistance under section 8 of the  
 20 United States Housing Act of 1937 (42 U.S.C. 1437f) (in  
 21 this section referred to as “section 8”).

22 (b) **TERMS.**—A contract for project-based rental as-  
 23 sistance under section 8 pursuant to a conversion under  
 24 subsection (a) of this section shall—

1           (1) be subject to the availability of amounts  
2       provided in appropriations Act; and

3           (2) have a term that is not shorter in duration  
4       than the remaining term of the contract that is con-  
5       verted, pursuant to subsection (a) of this section, to  
6       project-based assistance under such section 8, plus  
7       an additional term of not less than 5 years, and up  
8       to 30 years at the request of the owner.

9       (c) LOAN MANAGEMENT ASSISTANCE CONTRACTS.—  
10   After the initial year of a project-based rental assistance  
11   contract under section 8 for loan management assistance,  
12   the contract may, at the option of the project owner and  
13   subject to the conditions specified in section 524(a)(4)(D)  
14   of the Multifamily Assisted Housing Reform and Afford-  
15   ability Act of 1997 (42 U.S.C. 1437f note), be converted  
16   to a renewal contract under such section 524, subject to  
17   the availability of appropriations, if the project owner  
18   agrees to a contract term that extends 10 years beyond  
19   the remaining term of the assistance contract.

20       (d) USE RESTRICTIONS.—Notwithstanding any other  
21   provision of law, conversion of a contract pursuant to sub-  
22   section (a) shall not diminish the affordability restrictions  
23   or number of assisted units applicable to the property that  
24   is subject to the contract converted.

1 (e) USE OF RECAPTURED AMOUNTS.—Any budget  
 2 authority recaptured as a result of conversion of any con-  
 3 tract pursuant to subsection (a) shall be used by the Sec-  
 4 retary of Housing and Urban Development for making as-  
 5 sistance payments with respect to the initial 12-month pe-  
 6 riod of the contract for project-based rental assistance  
 7 under section 8 resulting from such conversion.

8 **SEC. 102. PRESERVATION OF PROPERTIES WITH EXPIRING**  
 9 **USE RESTRICTIONS.**

10 (a) FEDERAL ASSISTANCE AND EXTENSION OF AF-  
 11 FORDABILITY REQUIREMENTS.—

12 (1) PROVISION OF ASSISTANCE.—

13 (A) AUTHORITY.—The Secretary of Hous-  
 14 ing and Urban Development may use amounts  
 15 made available under paragraph (5) to provide  
 16 assistance under this section with respect to  
 17 covered multifamily housing properties.

18 (B) APPLICATIONS AND SELECTION CRI-  
 19 TERIA.—The Secretary shall provide for owners  
 20 of covered multifamily housing properties to  
 21 submit applications for assistance under this  
 22 section and shall establish criteria for selection  
 23 of properties to receive assistance that shall  
 24 take into consideration the need of a property  
 25 for such assistance.

1           (2) REHABILITATION ASSISTANCE.—The Sec-  
2       retary may provide a grant or loan under this para-  
3       graph to the owner or purchaser of the property,  
4       subject to the following requirements:

5           (A) PURPOSE.—The assistance shall be  
6       provided for the purpose of rehabilitating the  
7       property for continued use as housing afford-  
8       able to low- and moderate-income families.

9           (B) ELIGIBLE USE.—Amounts from the  
10      grant or loan may be used only for payment of  
11      nonrecurring maintenance and capital improve-  
12      ments for the property, and associated trans-  
13      action costs, under such terms and conditions  
14      as are determined by the Secretary.

15          (C) PER UNIT AMOUNT LIMITATIONS.—  
16      The amount from a grant or loan used with re-  
17      spect to a dwelling unit in the property may not  
18      exceed the per unit dollar amount limitation as  
19      the Secretary shall establish for purposes of  
20      this paragraph for dwelling units of the applica-  
21      ble size.

22          (D) REQUIRED EXTENSION OF AFFORD-  
23      ABILITY RESTRICTIONS.—The Secretary may  
24      provide assistance under this paragraph for a  
25      property only if the owner of the property en-



1           ters into such binding commitments as the Sec-  
2           retary may require, which shall be applicable to  
3           any subsequent owner, to ensure that the prop-  
4           erty will be operated, for a period of not less  
5           than 30 years that begins on the termination  
6           date for the property, in accordance with all af-  
7           fordability restrictions that are applicable to the  
8           property under the multifamily housing subsidy  
9           program under which the property is assisted  
10          before the termination date, with flexibility to  
11          recognize more significant restrictions accom-  
12          panying other subsidies for the property.

13          (3) ASSISTANCE FOR PURCHASE.—The Sec-  
14          retary may provide a grant or loan under this para-  
15          graph to an eligible organization under subpara-  
16          graph (B) for acquisition of a covered multifamily  
17          housing property, subject to the following require-  
18          ments:

19                (A) PURPOSE.—The assistance shall be  
20                provided for the purpose of facilitating acquisi-  
21                tion of properties by eligible organizations  
22                whose missions are to provide affordable hous-  
23                ing to low- and moderate-income families.

24                (B) ELIGIBLE ORGANIZATIONS.—A grant  
25                or loan under this paragraph may be made only

1 to a nonprofit organization, a for-profit organi-  
2 zation, or a public housing agency (as such  
3 term is defined in section 3(b) of the United  
4 States Housing Act of 1937 (42 U.S.C.  
5 1437a(b)) that provides such assurances as the  
6 Secretary may require that the organization—

7 (i) will acquire the property; and

8 (ii) is capable of managing the prop-  
9 erty and related facilities (either directly or  
10 through a contract) for the remaining use-  
11 ful life of the property and related facili-  
12 ties.

13 (C) ELIGIBLE USE.—Amounts from the  
14 grant or loan may be used only to cover any di-  
15 rect costs (other than the purchase price), in-  
16 cluding transaction costs, incurred by the eligi-  
17 ble organization in purchasing and assuming re-  
18 sponsibility for the property and related facili-  
19 ties involved.

20 (D) PER UNIT AMOUNT LIMITATIONS.—  
21 The amount from a grant or loan used with re-  
22 spect to a dwelling unit in the property may not  
23 exceed the per unit dollar amount limitation as  
24 the Secretary shall establish for purposes of

1           this paragraph for dwelling units of the applica-  
2           ble size.

3           (E) REQUIRED EXTENSION OF AFFORD-  
4           ABILITY RESTRICTIONS.—The Secretary may  
5           provide assistance under this paragraph for a  
6           property only if the eligible organization that  
7           purchases the property enters into such binding  
8           commitments as the Secretary may require,  
9           which shall be applicable to any subsequent  
10          owner, to ensure that the property will be oper-  
11          ated, for the remaining useful life of the prop-  
12          erty, in accordance with all affordability restric-  
13          tions that are applicable to the property under  
14          the multifamily housing subsidy program under  
15          which the property is assisted before the termi-  
16          nation date.

17          (4) LOW- AND MODERATE-INCOME AFFORD-  
18          ABILITY ASSISTANCE.—The Secretary may provide  
19          new project-based assistance under section 8 of the  
20          United States Housing Act of 1937 (42 U.S.C.  
21          1437f) for currently unassisted units in covered mul-  
22          tifamily housing properties occupied by tenants oth-  
23          erwise eligible for such assistance, subject to the fol-  
24          lowing requirements:

1 (A) PURPOSE.—The assistance shall be  
2 provided for the purpose of maintaining the af-  
3 fordability of dwelling units in covered multi-  
4 family housing properties not currently provided  
5 project-based rental assistance.

6 (B) ELIGIBILITY.—Assistance may be  
7 made available for a property only if the prop-  
8 erty—

9 (i) is located in an area having a dem-  
10 onstrated demand for affordable rental  
11 housing; or

12 (ii) may be subject to rent level in-  
13 creases as the result of mortgage maturity  
14 or termination or as the result of a recap-  
15 talization activity approved by the Sec-  
16 retary or the Secretary of Agriculture.

17 (C) FORM AND TERM.—The assistance  
18 shall be in the form of a housing assistance  
19 payment contract under such section 8 and  
20 shall be provided for such term as may be  
21 agreed to by the Secretary and the owner of the  
22 property. The form of assistance may include  
23 an amendment of an existing assistance con-  
24 tract to cover additional units in the subject  
25 property.

1 (D) PREVENTION OF DUPLICATIVE SUB-  
2 SIDIES.—Assistance may not be provided for  
3 any dwelling unit in a property if such assist-  
4 ance would duplicate other project- or tenant-  
5 based rental assistance of any kind for the  
6 dwelling unit from any source.

7 (E) AMOUNT AND RENT LEVELS.—The  
8 Secretary shall determine the amount of annual  
9 assistance provided for a property based on rent  
10 levels, for the dwelling units in the property  
11 that are subject to affordability restrictions pur-  
12 suant to subparagraph (F), that are equal to  
13 the lesser of—

14 (i) comparable market rents for the  
15 market area in which the property is lo-  
16 cated for dwelling units of the applicable  
17 size; and

18 (ii) 150 percent of the fair market  
19 rentals established under section 8(c) of  
20 the United States Housing Act of 1937 for  
21 the market area in which the property is  
22 located for dwelling units of the applicable  
23 size.

24 (F) REQUIRED EXTENSION OF AFFORD-  
25 ABILITY RESTRICTIONS.—The Secretary may

1 provide assistance under this paragraph for a  
 2 property only if the owner of the property en-  
 3 ters into such binding commitments as the Sec-  
 4 retary may require, which shall be applicable to  
 5 any subsequent owner, to ensure that the prop-  
 6 erty will be operated, for a period not shorter  
 7 than the term of the assistance agreed to pur-  
 8 suant to subparagraph (C) or 10 years, which-  
 9 ever is longer, that begins on the termination  
 10 date for the property, in accordance with all af-  
 11 fordability restrictions that are applicable to the  
 12 property under the multifamily housing subsidy  
 13 program under which the property is assisted  
 14 before the termination date.

15 (5) AUTHORIZATION OF APPROPRIATIONS.—

16 There are authorized to be appropriated for assist-  
 17 ance under this subsection such sums as may be  
 18 necessary.

19 (b) ENHANCED VOUCHERS.—

20 (1) QUALIFICATION; ELECTION TO REMAIN IN  
 21 UNIT.—Section 8(t)(1) of the United States Housing  
 22 Act of 1937 (42 U.S.C. 1437f(t)(1)(B)) is amend-  
 23 ed—

24 (A) in the matter preceding subparagraph

25 (A), by inserting “and shall not require that the

1 family requalify under the selection standards  
2 for a public housing agency in order to be eligi-  
3 ble for such assistance” before the comma; and

4 (B) by striking subparagraph (B) and in-  
5 serting the following new subparagraph:

6 “(B)(i) the assisted family may elect to re-  
7 main in the same project in which the family  
8 was residing on the date of the eligibility event  
9 for the project regardless of unit and family  
10 size standards normally used by the admin-  
11 istering public housing agency (except that ten-  
12 ants may be required to move to units of appro-  
13 priate size if available on the premises), and the  
14 owner of the unit shall accept the enhanced  
15 voucher and terminate the tenancy only for se-  
16 rious or repeated violation of the terms and  
17 conditions of the lease or for violation of appli-  
18 cable law; and

19 “(ii) if, during any period the family  
20 makes such an election and continues to so re-  
21 side, the rent for the dwelling unit of the family  
22 in such project exceeds the applicable payment  
23 standard established pursuant to subsection (o)  
24 for the unit, the amount of rental assistance  
25 provided on behalf of the family shall be deter-

1           mined using a payment standard that is equal  
2           to the rent for the dwelling unit (as such rent  
3           may be increased from time-to-time), subject to  
4           paragraph (10)(A) of subsection (o) and any  
5           other reasonable limit prescribed by the Sec-  
6           retary, except that a limit shall not be consid-  
7           ered reasonable for purposes of this subpara-  
8           graph if it adversely affects such assisted fami-  
9           lies;”.

10           (2) PROVISION TO RESIDENTS OF ASSISTED  
11           MULTIFAMILY PROJECTS UPON TERMINATION  
12           DATE.—

13                   (A) REQUIREMENT.—Upon the termi-  
14           nation date for each assisted multifamily hous-  
15           ing property, to the extent that amounts for as-  
16           sistance under this paragraph are provided in  
17           advance in appropriation Acts, the Secretary of  
18           Housing and Urban Development shall make  
19           enhanced voucher assistance under section 8(t)  
20           of the United States Housing Act of 1937 (42  
21           U.S.C. 1437f(t)) available on behalf of each  
22           family described in subparagraph (B). The Sec-  
23           retary shall make such assistance available no  
24           later than 60 days before the termination date  
25           on behalf of each family described in subpara-



graph (B) that elects to move from the property.

(B) ELIGIBILITY.—A family described in this subparagraph is a family who—

(i)(I) is a low-income family (as such term is defined in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))); or

(II) is a moderate-income family that is—

(aa) an elderly family (as such term is used in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)));

(bb) a disabled family (as such term is used in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b))); or

(cc) residing in a low-vacancy area (as determined by the Secretary); and

(ii) is residing in—

(I) a property that immediately before such termination date was an

1                   assisted multifamily housing property;  
2                   and

3                   (II) a dwelling unit that is not  
4                   assisted after such termination date  
5                   under section 8 of the United States  
6                   Housing Act of 1937.

7                   (C) ELIGIBILITY EVENT.—Section 8(t)(2)  
8                   of the United States Housing Act of 1937 (42  
9                   U.S.C. 1437f(t)(2)) is amended by adding after  
10                  the period at the end the following new sen-  
11                  tence: “Such term includes, with respect to an  
12                  assisted multifamily housing property (as such  
13                  term is defined in section 102(f) of the Housing  
14                  Preservation and Tenant Protection Act of  
15                  2010), the occurrence of the termination date  
16                  (as such term is defined in such section 102(f))  
17                  for the property.”.

18                  (3) REGULATIONS.—The Secretary of Housing  
19                  and Urban Development shall issue regulations to  
20                  implement the amendments made by this subsection  
21                  not later than the expiration of the 6-month period  
22                  beginning on the date of enactment of this Act, and  
23                  such regulations shall require that the provisions of  
24                  such amendments relating to termination of tenancy  
25                  shall be contained in the lease.

1 (c) NOTIFICATION REQUIREMENT.—

2 (1) TIMING.—An owner of an assisted multi-  
3 family housing property, including any owner of a  
4 property with rent limitations that expire concu-  
5 rently with the expiration of the term of the mort-  
6 gage for the property, who intends to terminate or  
7 alter the affordability restrictions for the property  
8 on or after the termination date for the property  
9 shall, not less than 12 months before such termi-  
10 nation date, provide written notice of such termi-  
11 nation date to the Secretary of Housing and Urban  
12 Development, the chief executive officer of the State  
13 and the unit of general local government (as such  
14 term is defined in section 104 of the Cranston-Gon-  
15 zalez National Affordable Housing Act (42 U.S.C.  
16 12704)) in which the property is located, and each  
17 tenant of the property.

18 (2) CONTENTS.—The notice shall include—

19 (A) a statement specifying any changes in  
20 the terms or applicability of the affordability re-  
21 strictions for the property that the owner in-  
22 tends to make on or after the termination date  
23 for the property;

24 (B) a statement that, if the owner pro-  
25 ceeds with such intended changes and the Con-

gress makes funds available, the Department of Housing and Urban Development will provide tenant-based rental assistance to all eligible residents, enabling them to choose the place they wish to rent, which may include the right to remain in the dwelling unit in which they currently reside; and

(C) a statement that, if the Congress makes funds available, the owner and the Secretary may yet agree to renewal of assistance and affordability restrictions for the property, thereby obviating the need for such tenant-based rental assistance.

(3) FAILURE TO PROVIDE NOTICE.—If the owner does not provide the notice required under this subsection, notwithstanding any inapplicability of the affordability restrictions for the property, the owner may not evict the tenants or increase the tenants' rent payments until such time as the owner has provided the notice and the 12-month period beginning upon the provision of such notice has elapsed.

(4) OTHER TERMS.—The Secretary may, to preserve affordable housing or protect tenants in

1       such properties, establish additional notice require-  
2       ments.

3           (5) SAVINGS PROVISION.—This subsection may  
4       not be construed to annul, alter, affect, or preempt  
5       any provision of the law of a State or political sub-  
6       division thereof requiring notice regarding termi-  
7       nation of assistance or affordability restrictions with  
8       respect to a multifamily housing project or to ex-  
9       empt any person from complying with such a law.

10       (d) PROJECTS WITH COMMON USE AGREEMENTS.—  
11       Notwithstanding any provision of the Emergency Low In-  
12       come Housing Preservation Act of 1987 (12 U.S.C. 1715l  
13       note), if two covered multifamily housing properties are  
14       encumbered by use agreements that were recorded in land  
15       records on the same date pursuant to such Act and both  
16       such properties are subject to a single mortgage, both such  
17       use agreements shall be deemed to expire on the earlier  
18       of the expiration dates stated in such use agreements, but  
19       only if the owner of the properties agrees to maintain any  
20       project-based rental assistance for both such properties for  
21       the 30-year period beginning upon such common expira-  
22       tion date. At the request of the owner, the Secretary shall  
23       establish contract rents for such project-based assistance  
24       at levels for comparable properties in the same market  
25       area.

1 (e) ANNUAL AND SEMIANNUAL REVIEWS.—

2 (1) ANNUAL REVIEW.—To ensure compliance  
3 with this section, the Secretary shall conduct an an-  
4 nual review on actions taken under this section and  
5 the status of covered multifamily housing properties  
6 and submit a report to the Congress regarding each  
7 such annual review.

8 (2) SEMIANNUAL REVIEW.—Not less than semi-  
9 annually during the 2-year period beginning on the  
10 date of the enactment of this Act and not less than  
11 annually thereafter, the Secretary shall submit re-  
12 ports to the Committee on Financial Services of the  
13 House of Representatives and the Committee on  
14 Banking, Housing, and Urban Affairs of the Senate  
15 stating, for such periods, the total number of as-  
16 sisted multifamily housing properties for which noti-  
17 fication has been provided under subsection (c) dur-  
18 ing such period, the total number of covered multi-  
19 family housing properties for which assistance has  
20 been provided under subsection (a), and the type or  
21 types of such assistance provided.

22 (f) DEFINITIONS.—For purposes of this section:

23 (1) AFFORDABILITY RESTRICTIONS.—The term  
24 “affordability restrictions” means, with respect to a  
25 covered multifamily housing property, limits imposed

1 by regulation, regulatory agreement, or contract on  
2 tenant rents, rent contributions, or income eligibility.

3 (2) ASSISTED MULTIFAMILY HOUSING PROP-  
4 ERTY.—The term “assisted multifamily housing  
5 property” means a multifamily housing project for  
6 which assistance is provided under a multifamily  
7 housing subsidy program.

8 (3) COMPARABLE PROPERTIES.—The term  
9 “comparable properties” means, with respect to a  
10 covered multifamily housing property, properties in  
11 the same market area, where practicable, that—

12 (A) are similar to the covered multifamily  
13 housing property as to neighborhood (including  
14 risk of crime), type of location, access, street  
15 appeal, age, property size, apartment mix, phys-  
16 ical configuration, property and unit amenities,  
17 utilities, and other relevant characteristics;

18 (B) are not receiving rental assistance of  
19 any kind from any source; and

20 (C) are not subject to affordability restric-  
21 tions of any kind.

22 (4) COVERED MULTIFAMILY HOUSING PROP-  
23 ERTY.—The term “covered multifamily housing  
24 property” means an assisted multifamily housing  
25 property for which the termination date will occur

1 within the 10-year period beginning on the date of  
2 the enactment of this Act.

3 (5) LOW-INCOME FAMILY.—The term “low-in-  
4 come family” has the meaning given such term in  
5 section 3(b) of the United States Housing Act of  
6 1937 (42 U.S.C. 1437a(b)).

7 (6) MODERATE-INCOME FAMILY.—The term  
8 “moderate-income family” has the meaning given  
9 such term in section 229 of the Low-Income Hous-  
10 ing Preservation and Resident Homeownership Act  
11 of 1992 (12 U.S.C. 4119).

12 (7) MULTIFAMILY HOUSING SUBSIDY PRO-  
13 GRAM.—The term “multifamily housing subsidy pro-  
14 gram” means—

15 (A) the rent supplement program under  
16 section 101 of the Housing and Urban Develop-  
17 ment Act of 1965 (12 U.S.C. 1701s);

18 (B) the below-market interest rate mort-  
19 gage insurance program under section  
20 221(d)(3) of the National Housing Act (12  
21 U.S.C. 1715l(d)(3));

22 (C) a contract under section 236(f)(2) of  
23 the National Housing Act (12 U.S.C. 1715z-  
24 1(f)(2));



1 (D) the program for interest reduction  
2 payments under section 236 of the National  
3 Housing Act (12 U.S.C. 1715z-1) and any  
4 comparable State program providing for inter-  
5 est reduction payments;

6 (E) the program for supportive housing for  
7 the elderly under section 202 of the Housing  
8 Act of 1959 (12 U.S.C. 1701q), including as-  
9 sistance under such section as in effect before  
10 the enactment of the Cranston-Gonzalez Na-  
11 tional Affordable Housing Act;

12 (F) the program for rural rental housing  
13 under section 515 of the Housing Act of 1949  
14 (42 U.S.C. 1485); and

15 (G) any other mortgage insurance program  
16 provided under the National Housing Act for  
17 which the insured property is subject to budget-  
18 based rent restrictions.

19 (8) NONPROFIT ORGANIZATION.—The term  
20 “nonprofit organization” has the meaning, with re-  
21 spect to housing assisted under this section, given  
22 such term in section 202(k) of the Housing Act of  
23 1959 (12 U.S.C. 1701q(k)).

24 (9) SECRETARY.—The term “Secretary” means  
25 the Secretary of Housing and Urban Development.

1           (10) TERMINATION DATE.—The term “termi-  
2       nation date” means, with respect to an assisted or  
3       a covered multifamily housing property, the date  
4       that—

5                   (A) the mortgage, loan, or capital advance  
6       for the property matures or expires and the af-  
7       fordability restrictions applicable to the prop-  
8       erty because of assistance for the property pur-  
9       suant to a multifamily housing subsidy program  
10      terminate with respect to the property;

11                  (B) an assistance contract for the property  
12      that is not renewed, terminates, or expires;

13                  (C) in the case of a property that is not el-  
14      igible low-income housing, as such term is de-  
15      fined in section 229 of the Low-Income Hous-  
16      ing Preservation and Resident Homeownership  
17      Act of 1990 (12 U.S.C. 4119), the mortgage or  
18      loan that covers the property is prepaid or an  
19      insurance contract that covers the property ter-  
20      minates; or

21                  (D) use restrictions imposed with respect  
22      to the property pursuant to the Emergency Low  
23      Income Housing Preservation Act of 1987 ex-  
24      pire.

1 (g) REGULATIONS.—The Secretary may issue any  
2 regulations necessary to carry out this section.

3 **SEC. 103. ENHANCED VOUCHER ASSISTANCE AND PRESER-**  
4 **VATION PROJECT-BASED SECTION 8 ASSIST-**  
5 **ANCE FOR STATE-FINANCED AFFORDABLE**  
6 **HOUSING.**

7 (a) ENHANCED VOUCHER ASSISTANCE.—

8 (1) REQUIREMENT.—Upon the prepayment or  
9 maturity of a mortgage for which interest reduction  
10 payments have been made through a State housing  
11 program or financed by a State housing finance  
12 agency and subsidized by interest reduction pay-  
13 ments made pursuant to section 236 of the National  
14 Housing Act (12 U.S.C. 1715z–1), to the extent  
15 that amounts for assistance under this subsection  
16 are provided in advance in appropriation Acts, the  
17 Secretary of Housing and Urban Development shall  
18 make enhanced voucher assistance under section 8(t)  
19 of the United States Housing Act of 1937(42 U.S.C.  
20 1437(t)) available on behalf of families described in  
21 paragraph (2).

22 (2) ELIGIBLE FAMILIES.—A family described in  
23 this paragraph is a family that—

1           (A)(i) is a low-income family, as such term  
2           is defined in section 3(b) of the United States  
3           Housing Act of 1937 (42 U.S.C. 1437a(b)); or

4           (ii) is a moderate-income family that has  
5           an income that is not less than 80 percent, and  
6           not greater than 95 percent, of the median in-  
7           come for the area, as determined by the Sec-  
8           retary, that—

9           (I) is an elderly family (as such term  
10          is used in section 3(b) of the United States  
11          Housing Act of 1937 (42 U.S.C.  
12          1437a(b));

13          (II) is a disabled family (as such term  
14          is used in such section 3(b); or

15          (III) resides in a low-vacancy area, as  
16          determined by the Secretary; and

17          (B) on such prepayment or maturity date  
18          is residing in dwelling unit of the project that—

19               (i) immediately before such prepay-  
20               ment or maturity was subject to the mort-  
21               gage for which interest reduction payments  
22               were made and subject to affordability re-  
23               strictions; and

24               (ii) is not assisted after such prepay-  
25               ment or maturity date under section 8 of

1           the United States Housing Act of 1937,  
2           other than as provided under section  
3           8(t)(4) of the United States Housing Act  
4           of 1937 (42 U.S.C. 1437f(t)(4)).

5           (3) ELIGIBILITY EVENT.—Paragraph (2) of sec-  
6           tion 8(t) of the United States Housing Act of 1937  
7           (42 U.S.C. 1437f(t)(2)), as amended by the pre-  
8           ceding provisions of this Act, is further amended by  
9           adding after the period at the end the following new  
10          sentence: “Such term also includes, with respect to  
11          a multifamily family housing project with a mort-  
12          gage for which interest reduction payments have  
13          been made through a State housing program or fi-  
14          nanced by a State housing finance agency, the pre-  
15          payment or maturity of such mortgage which results  
16          in eligible residents of such housing project being eli-  
17          gible for enhanced voucher assistance under this  
18          subsection, pursuant to section 103(a) of the Hous-  
19          ing Preservation and Tenant Protection Act of  
20          2010.”.

21          (b) PRESERVATION PROJECT-BASED SECTION 8 AS-  
22          SISTANCE.—

23               (1) IN GENERAL.—Notwithstanding any other  
24               provision of law, in connection with the prepayment  
25               or maturity of a multifamily housing project mort-

1        gage subsidized by interest reduction payments  
2        made through a State housing program or financed  
3        by a State housing finance agency and subsidized by  
4        interest reduction payments made pursuant to sec-  
5        tion 236 of the National Housing Act (12 U.S.C.  
6        1715z-1), to prevent displacement of residents and  
7        to further preservation and affordability of such  
8        multifamily housing project, at the election of the  
9        project owner and in lieu of enhanced voucher assist-  
10        ance under subsection (a) of this section or project-  
11        based voucher assistance under subsections (t)(4)  
12        and (o)(13)(N) of section 8 of the United States  
13        Housing Act of 1937 (42 U.S.C. 1437f), the Sec-  
14        retary of Housing and Urban Development shall,  
15        pursuant to the authority under subsections (a) and  
16        (b) of such section 8, enter an annual contributions  
17        contract with the State housing finance agency to  
18        permit the State housing finance agency enter  
19        project-based assistance contract under this sub-  
20        section covering all units in the project for which  
21        such enhanced or project-based voucher assistance  
22        would otherwise be provided.

23            (2) CONTRACT TERMS.—Any project-based as-  
24        sistance contract pursuant to this subsection shall—

1 (A) be considered for all purposes a con-  
2 tract entered into under section 8 of the United  
3 States Housing Act of 1937 (42 U.S.C. 1437f);

4 (B) have a term of at least 20 years;

5 (C) provide such assistance at rent levels  
6 established as provided under section 524 of the  
7 Multifamily Assisted Housing Reform and Af-  
8 fordability Act of 1997 (42 U.S.C. 1437f note);

9 (D) be subsequently renewable at the re-  
10 quest of the owner under such section 524;

11 (E) be subject to the availability of  
12 amounts provided in appropriations Acts; and

13 (F) be subject to such other terms as the  
14 Secretary considers appropriate.

15 (3) INCOME TARGETING.—To the extent that  
16 dwelling units subject to an assistance contract  
17 under this paragraph are occupied by families eligi-  
18 ble for enhanced voucher assistance under section  
19 8(t) of the United States Housing Act of 1937 (42  
20 U.S.C. 1437f(t)), the units shall be considered to be  
21 in compliance with all income targeting requirements  
22 under the United States Housing Act of 1937.

23 (4) TENANT ELIGIBILITY.—Notwithstanding  
24 any other provision of law, in the multifamily hous-  
25 ing project for which project-based assistance is pro-

vided pursuant to this subsection, each eligible family described in subsection (a)(2) of this section that resides in a dwelling unit in such project on the date such assistance contract first becomes effective shall be considered to meet any applicable requirements for income eligibility and occupancy.

(5) CONTRACT ADMINISTRATION.—Notwithstanding any other provision of law, any contract for project-based assistance entered into pursuant to this subsection shall be administered by the project-based contract administrator of the State in which the multifamily housing project is located.

**SEC. 104. PROJECT-BASED PRESERVATION ASSISTANCE.**

(a) ENHANCED VOUCHERS.—Section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)) is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

“(4) PROJECT-BASED PRESERVATION ASSISTANCE.—

“(A) AUTHORITY.—Notwithstanding any other provision of law, in the case of a multifamily housing project eligible under subpara-



graph (C), the Secretary shall, subject to the availability of amounts provided in advance in appropriation Acts and at the request of the owner of the project, provide project-based preservation assistance in accordance with this paragraph, in such form authorized in subparagraph (B) as is requested by the owner, in lieu of enhanced voucher assistance under this subsection. Such owner of the project shall agree to accept such project-based preservation assistance for a period of not less than 20 years: *Provided*, That any renewal contract during such period is offered on terms and conditions comparable to the original contract.

“(B) FORMS.—Project-based preservation assistance provided in accordance with this paragraph shall be in one of the following forms:

“(i) PROJECT-BASED PRESERVATION VOUCHERS.—Project-based voucher assistance, which shall be provided in accordance with subsection (o)(13)(N).

“(ii) PROJECT-BASED ASSISTANCE.—Project-based assistance under the terms and conditions in section 524 of the Multi-

1 family Assisted Housing Reform and Af-  
2 fordability Act of 1997 (42 U.S.C. 1437f  
3 note). In determining the initial rent levels  
4 for a contract for project-based assistance  
5 under this subparagraph, the Secretary  
6 shall establish initial contract rents at the  
7 comparable market rents for the area (as  
8 such term is defined in section 524(a)(5)  
9 of the Multifamily Assisted Housing Re-  
10 form and Affordability Act of 1997 (42  
11 U.S.C. 1437f note)).

12 “(C) ELIGIBLE PROJECTS.—A multifamily  
13 housing project is eligible under this subpara-  
14 graph if—

15 “(i)(I) an eligibility event for the  
16 project occurs; and

17 “(II) the project is not a project for  
18 which the owner has opted not to renew a  
19 contract for project-based rental assistance  
20 under this section; or

21 “(ii) enhanced voucher assistance has  
22 already been provided for the project pur-  
23 suant to the conditions specified in sub-  
24 paragraph (F)(ii).

25 “(D) ELIGIBLE UNITS.—

1           “(i) INCOME ELIGIBILITY.—Assistance  
2           pursuant to this paragraph may be pro-  
3           vided for all dwelling units in a multifamily  
4           housing project for which tenants residing  
5           in the project at the time assistance is ini-  
6           tially provided meet income eligibility re-  
7           quirements for enhanced voucher assist-  
8           ance under this subsection.

9           “(ii) ADDITIONAL UNITS.— At the re-  
10          quest of the owner of a multifamily hous-  
11          ing project for which assistance pursuant  
12          to this paragraph is provided, the Sec-  
13          retary may approve assistance for addi-  
14          tional dwelling units, which may include  
15          units that are vacant at the time of the eli-  
16          gibility event, subject to a determination  
17          by the Secretary that such additional as-  
18          sistance is necessary or desirable to further  
19          the purposes reflected in subparagraph  
20          (E).

21          “(iii) RENT PAYMENTS.—Eligible  
22          families residing in a project at the time  
23          assistance pursuant to this paragraph is  
24          provided shall be subject to the provisions  
25          of subparagraphs (A) and (D) of para-

graph (1) of this subsection. Notwithstanding the preceding sentence, an eligible family that is a low-income family shall not be required to pay as rent for a dwelling unit assisted pursuant to this paragraph an amount that exceeds 30 percent of the family's adjusted monthly income.

“(iv) INCOME ELIGIBILITY.—For purposes of income targeting requirements under section 16 of the United States Housing Act of 1937 (42 U.S.C. 1437n), tenants initially assisted under this paragraph shall not be considered new tenants.

“(E) REQUIRED DETERMINATIONS.—As a condition of entering into a contract pursuant to this paragraph, the Secretary shall have determined, pursuant to standards established by the Secretary and before entering into such contract, that—

“(i) the housing to be assisted under the contract is economically viable; and

“(ii)(I) there is a significant demand for the housing;

“(II) the housing will contribute to a community revitalization plan or to

1           deconcentrating poverty and expanding  
2           housing and economic opportunities; or  
3           “(III) the continued affordability of  
4           the housing otherwise is an important  
5           asset to the community.

6           The Secretary may delegate the authority to  
7           make the determination under this subpara-  
8           graph to the public housing agency or project-  
9           based contract administrator that would admin-  
10          ister project-based assistance for such project.  
11          Such public housing agency or project-based  
12          contract administrator shall apply such stand-  
13          ards as the Secretary shall establish in making  
14          such determination.

15          “(F) TIMING OF REQUEST.—

16               “(i) PROJECTS FOR WHICH REQUEST  
17               IS MADE BEFORE ELIGIBILITY EVENT.—In  
18               the case of a project eligible for assistance  
19               under subparagraph (C)(i) that is re-  
20               quested prior to the occurrence of the eligi-  
21               bility event, a contract for assistance pur-  
22               suant to this paragraph shall be provided  
23               upon the occurrence of the eligibility event.

24               “(ii) REQUEST MADE AFTER  
25               ISSUANCE OF ENHANCED VOUCHERS.—In

1 the case of a project eligible for assistance  
2 under subparagraph (C)(ii) that is re-  
3 quested after the issuance of enhanced  
4 voucher assistance for the project, a con-  
5 tract for assistance pursuant to this para-  
6 graph shall be provided only—

7 “(I) if the eligibility event for the  
8 project occurred before the date of the  
9 enactment of the Housing Preserva-  
10 tion and Tenant Protection Act of  
11 2010 and a request for such assist-  
12 ance is made within 12 months after  
13 such date of enactment (or such  
14 longer period as the Secretary may  
15 permit to facilitate preservation of the  
16 project as affordable housing);

17 “(II) if the project is sold or oth-  
18 erwise transferred and the new owner  
19 requests such assistance within 12  
20 months (or such longer period as the  
21 Secretary may permit to facilitate  
22 preservation of the project as afford-  
23 able housing) of such purchase; or

24 “(III) in such other cir-  
25 cumstances as the Secretary may de-

1                   termine are necessary or appropriate  
2                   to facilitate preservation of the project  
3                   as affordable.

4                   Assistance for projects eligible pursuant to  
5                   subparagraph (C)(ii) may only be provided  
6                   as project-based preservation voucher as-  
7                   sistance under subparagraph (B)(i). Such  
8                   contract shall cover all dwelling units in  
9                   the project that are occupied by tenants re-  
10                  ceiving enhanced voucher assistance at the  
11                  time the contract is effective, plus any ad-  
12                  ditional units as may be approved for the  
13                  project pursuant to subparagraph  
14                  (D)(ii).”.

15               (b) PHA PROJECT-BASED VOUCHER ASSISTANCE.—  
16               Paragraph (13) of section 8(o) of the United States Hous-  
17               ing Act of 1937 (42 U.S.C. 1437f(o)(13)) is amended by  
18               adding at the end the following new subparagraph:

19                       “(N) PRESERVATION ASSISTANCE.—  
20                       “(i)           AUTHORITY.—Project-based  
21                       voucher assistance in accordance with this  
22                       subparagraph shall be provided for projects  
23                       eligible for such assistance pursuant to  
24                       subsection (t)(4).

1                   “(ii)    AUTHORITY    FOR    HIGHER  
2                   RENTS.—At the request of the owner of a  
3                   multifamily housing project for a contract  
4                   for assistance in accordance with this sub-  
5                   paragraph to establish rents at levels above  
6                   those permitted by subparagraph (H) of  
7                   this paragraph, a public housing agency  
8                   may request, and the Secretary may ap-  
9                   prove, higher unit rents if necessary to  
10                  preserve housing opportunities that further  
11                  the purposes of subsection (t)(4)(E).

12                  “(iii) PROJECTS IN MULTIPLE PHA  
13                  JURISDICTIONS.—If the Secretary has not  
14                  entered into a contract with a public hous-  
15                  ing agency to provide enhanced voucher as-  
16                  sistance under subsection (t) for the  
17                  project at the time the owner of a multi-  
18                  family housing project requests assistance  
19                  in accordance with this subparagraph, and  
20                  the project is located within the jurisdic-  
21                  tion for the program under this subsection  
22                  of more than one public housing agency, in  
23                  determining which agency will administer  
24                  such assistance, the Secretary shall—



1           “(I) consider the ratio of the  
2           number of vouchers to be awarded  
3           under this subparagraph and of other  
4           project-based vouchers administered  
5           under this paragraph to the total  
6           number of vouchers administered by  
7           an agency; and

8           “(II) among other factors, pro-  
9           vide preference to an agency for which  
10          the total number of project-based  
11          vouchers administered under this  
12          paragraph, including vouchers to be  
13          awarded pursuant to this subpara-  
14          graph, would not exceed 50 percent of  
15          the total number of all vouchers to be  
16          administered by the agency after such  
17          award.

18          The Secretary shall establish guidelines for  
19          determining which agency will administer  
20          assistance if a unit is not located within  
21          the jurisdiction of any public housing agen-  
22          cy that administers vouchers.

23          “(iv) INAPPLICABILITY OF GOALS.—  
24          Subparagraph (C) shall not apply to a

1           housing assistance payment contract pur-  
 2           suant to this subparagraph.

3                   “(v) DISREGARD OF ASSISTANCE  
 4           UNDER PERCENTAGE LIMITATION.—  
 5           Amounts provided pursuant to this sub-  
 6           paragraph shall not be considered for pur-  
 7           poses of calculating the limitation under  
 8           subparagraph (B).

9                   “(vi) INAPPLICABILITY OF INCOME-  
 10          MIXING REQUIREMENT.—Subparagraph  
 11          (D) shall not apply with respect to a hous-  
 12          ing assistance payments contract pursuant  
 13          to this subparagraph.”.

14 **SEC. 105. PRESERVATION OF STATE-FINANCED AFFORD-**  
 15 **ABLE HOUSING.**

16          (a) MAXIMUM CONTRACT TERM.—In the case of a  
 17          State housing finance agency that has entered into a hous-  
 18          ing assistance payments contract with the owner of a  
 19          housing project for project-based rental assistance under  
 20          section 8 of the United States Housing Act of 1937 (42  
 21          U.S.C. 1437f), using the November 1975 version of form  
 22          HUD 52645A of the Department of Housing and Urban  
 23          Development, under the Section 8 Housing Assistance  
 24          Payment Program for State Housing Finance and Devel-  
 25          opment Agencies, if such contract provides that the max-

1 imum total term of the contract for any dwelling unit shall  
 2 not exceed a period terminating on the date of the last  
 3 payment of principal due on the permanent financing, the  
 4 Secretary of Housing and Urban Development shall treat  
 5 such provision as providing for a maximum term extending  
 6 to the originally scheduled maturity date of the permanent  
 7 financing, without regard to any prepayment of such per-  
 8 manent financing.

9 (b) AMENDMENT TO MARK-TO-MARKET PROVI-  
 10 SIONS.—Section 524 of the Multifamily Assisted Housing  
 11 Reform and Affordability Act of 1997 is amended—

12 (1) by redesignating subsection (g) as sub-  
 13 section (i); and

14 (2) by inserting after subsection (f) the fol-  
 15 lowing new subsection:

16 “(g) STATE HOUSING AGENCY CONTRACTS.—

17 “(1) RENT ADJUSTMENTS FOR EXTENDED CON-  
 18 TRACTS.—In the case of a contract for project-based  
 19 assistance under section 8 of the United States  
 20 Housing Act of 1937 pursuant to the State Housing  
 21 Agencies program governed by part 883 of the Sec-  
 22 retary’s regulations (24 C.F.R. 883), the provisions  
 23 of this section authorizing the increase of rent levels  
 24 to comparable market rents shall apply upon the ex-  
 25 piration of any contract term, notwithstanding the

1 renewal provisions of the contract. If, at any time  
2 during the five-year period ending upon the final ex-  
3 piration date of any such contract, the owner of the  
4 housing project assisted under the contract enters  
5 into a binding commitment to renew the contract at  
6 the rent levels authorized under subsection (a)(4)(A)  
7 for an additional five-year term beginning upon the  
8 final expiration of the contract, the annual rent ad-  
9 justment during such five-year period ending upon  
10 such final expiration date may be to such rent levels.

11 “(2) PROJECTS WITH DEBT FINANCING.—In  
12 the case of a contract for project-based assistance  
13 under section 8 for a project with debt financing  
14 provided by a State housing agency or local housing  
15 authority, with the approval of the State housing  
16 agency or local authority, the owner may terminate  
17 the contract and enter into a new contract for  
18 project-based assistance under this section for a  
19 term of 20 years, subject to the availability of  
20 amounts provided by appropriation Acts, but only if  
21 the owner enters into an enforceable commitment to  
22 preserve the affordability of the project for not fewer  
23 than 55 years from the date of such contract, sub-  
24 ject to the continued provision of rental assistance  
25 under section 8 or a comparable program.”.

1 **SEC. 106. PRESERVATION EXCHANGE PROGRAM.**

2 (a) ESTABLISHMENT OF PROGRAM.—The Secretary  
3 of Housing and Urban Development shall carry out a pres-  
4 ervation exchange program under this section to provide  
5 for the transfer of preservation projects to purchasers who  
6 agree to maintain the projects for use for affordable hous-  
7 ing.

8 (b) PARTICIPATION.—

9 (1) ELECTION.—The Secretary shall provide for  
10 owners of preservation projects to elect, in accord-  
11 ance with such procedures as the Secretary shall es-  
12 tablish, to participate in the preservation exchange  
13 program under this section.

14 (2) TRANSFER OF PRESERVATION PROJECTS.—  
15 A selling owner of a preservation project may, in ac-  
16 cordance with this section, enter into a contract for  
17 transfer of the project to a preservation purchaser  
18 during the 12-month period beginning upon such  
19 election.

20 (3) OFFER PERIOD.—A selling owner of a pres-  
21 ervation project shall agree not to sell, transfer, or  
22 further encumber the preservation project during the  
23 period of the owner's participation in the program,  
24 with respect to such project, except as otherwise pro-  
25 vided in this section.

1           (4) COMPLIANCE WITH PROGRAM REQUIRE-  
2           MENTS.—Except as otherwise provided by the Sec-  
3           retary, a preservation project may be sold under the  
4           program only if all of the parties to the transaction  
5           comply with the requirements of this section.

6           (c) NOTICE OF PARTICIPATION AND CERTIFI-  
7           CATION.—

8           (1) RECIPIENTS; TIMING.—Each selling owner  
9           shall of a preservation project shall—

10                 (A) not later than the date that is 12  
11                 months before the date of maturity or expira-  
12                 tion of the mortgage on the preservation  
13                 project, provide written notice of election to  
14                 participate in the program with respect to the  
15                 project to—

16                         (i) the Secretary;  
17                         (ii) each tenant of the project;  
18                         (iii) any public housing agency or  
19                         other organization representing tenants of  
20                         the preservation project; and

21                         (iv) qualified State and local authori-  
22                         ties; and

23                 (B) post such notice conspicuously in the  
24                 common area of the preservation project for the  
25                 duration of the 12-month period beginning on

1 the date that notice is required to be provided  
2 pursuant to subparagraph (A).

3 (2) CONTENTS.—Notice required under sub-  
4 paragraph (A) shall—

5 (A) include a statement that the selling  
6 owner has elected to participate in the preserva-  
7 tion exchange program and to seek a contract  
8 for sale of the preservation project to a preser-  
9 vation purchaser within the 12-month period  
10 following the date of the notice, or within such  
11 other time period as permitted by this section;

12 (B) clearly identify the preservation  
13 project;

14 (C) identify, and provide contact informa-  
15 tion for, the selling owner; and

16 (D) include such other information regard-  
17 ing the preservation project and its potential  
18 sale under the program as the Secretary may  
19 require, which shall include information con-  
20 cerning any applicable subsidies or restrictions  
21 applicable to the preservation project.

22 (3) CERTIFICATION.—Not later than 7 days  
23 after completion of all notice requirements of para-  
24 graph (1) with respect to a preservation project, the  
25 selling owner shall certify in writing to the Secretary

1 that notice to all recipients has been provided as re-  
2 quired under this section.

3 (4) NOTIFICATION TO CONGRESS AND PUB-  
4 LIC.—Not later than 14 days after certification pur-  
5 suant to paragraph (3) is provided to the Secretary  
6 regarding a preservation project, the Secretary  
7 shall—

8 (A) provide to the Member of the House of  
9 Representatives representing the district in  
10 which the project is located, and to the Mem-  
11 bers of the Senate for the State in which the  
12 project is located, a copy of such notice and cer-  
13 tification; and

14 (B) make such notice and certification  
15 publicly available at an easily identifiable World  
16 Wide Web location of the Department of Hous-  
17 ing and Urban Development.

18 (d) OPPORTUNITY TO PURCHASE.—

19 (1) NOTIFICATION; OFFER.—During the offer  
20 period referred to in subsection (b)(3) with respect  
21 to a preservation project—

22 (A) the Secretary shall post on an easily  
23 identifiable World Wide Web location of the De-  
24 partment of Housing and Urban Development  
25 information that identifies the preservation



1 project as eligible for purchase or transfer pur-  
2 suant to the preservation exchange program,  
3 additional information about the property, as  
4 determined by the Secretary, and the identity of  
5 a contact person on behalf of the selling owner  
6 who may be contacted by a potential preserva-  
7 tion purchaser; and

8 (B) a potential preservation purchaser may  
9 make an offer to purchase the preservation  
10 project, in accordance with the requirements of  
11 this section, by providing the offer, in writing,  
12 to the selling owner and a copy of the offer to  
13 the Secretary.

14 (2) DETERMINATION OF BONA FIDE OFFER.—

15 During the 21-day period beginning upon receipt of  
16 a copy of an offer to purchase a preservation project  
17 made by a potential preservation purchaser pursuant  
18 to paragraph (1)(B) (in this subsection referred to  
19 as the “review period”), the Secretary shall—

20 (A) review the terms of the offer to pur-  
21 chase and determine whether it is a bona fide  
22 preservation purchase offer meeting the require-  
23 ments of subsection (e); and

24 (B) provide notice of such determination to  
25 the parties.

1 If the parties do not receive such notice of such de-  
2 termination from the Secretary during the review pe-  
3 riod, notwithstanding subsection (i)(1), the offer  
4 shall be considered for purposes of this section to be  
5 a bona fide preservation purchase offer.

6 (3) TOLLING OF OTHER PERIODS.—During the  
7 review period for an offer to purchase a preservation  
8 project or until earlier receipt of a determination  
9 from the Secretary under paragraph (2), all other  
10 time periods set forth in this section shall be tolled  
11 with respect to such preservation project.

12 (4) ACTION ON OFFER.—With respect to a bona  
13 fide offer to purchase a preservation project made by  
14 a potential preservation purchase, during the 30-day  
15 period that begins upon the earlier of the receipt of  
16 a determination from the Secretary under paragraph  
17 (2) regarding the offer or the expiration of the re-  
18 view period, the selling owner shall accept or reject  
19 the offer, subject to the conditions and requirements  
20 set forth in this section.

21 (5) ACCEPTED OFFER; CONTRACT.—If a selling  
22 owner accepts a bona fide preservation purchase  
23 offer made by a potential preservation purchaser,  
24 such parties shall promptly enter into a binding con-  
25 tract that reflects the terms of the accepted offer.

1           (6) DECLINED OFFER.—If a selling owner de-  
2       clines to accept any bona fide preservation purchase  
3       offer made to the owner, such owner shall—

4           (A) provide to the Secretary a written ex-  
5       planation of the basis for its decision; and

6           (B) repay to the Secretary all funds it re-  
7       ceived as a participant in the program, plus in-  
8       terest at rate determined by the Secretary at  
9       the time the funds were made available.

10       (e) BONA FIDE PRESERVATION PURCHASE  
11 OFFER.—An offer to purchase a preservation project shall  
12 constitute a bona fide preservation purchase offer meeting  
13 the requirements of this subsection only if the offer—

14       (1) includes an agreement by the preservation  
15       purchaser to enter into such agreements, which shall  
16       be contained in the deed or other recorded instru-  
17       ments for the preservation project, as specified by  
18       the Secretary, that ensure that the preservation  
19       project will remain affordable for very-low income  
20       families for a period of not less than 40 years from  
21       the date of transfer pursuant to sale under such  
22       offer, utilizing all available assistance, including re-  
23       newal of existing Federal assistance contracts and  
24       leasing to holders of tenant-based assistance;

1           (2) includes an agreement by the preservation  
2           purchaser to accept any contract for project-based  
3           rental assistance applicable to the preservation  
4           project, notwithstanding the transfer of the preser-  
5           vation housing to the preservation purchaser, includ-  
6           ing the renewal of such contract upon expiration, for  
7           a period of not less than 40 years from the date of  
8           transfer;

9           (3) requires that the preservation purchaser  
10          execute such agreements, which shall be contained in  
11          the deed or other recorded instruments for the pres-  
12          ervation housing, as specified by the Secretary, that  
13          ensure that the preservation project and related fa-  
14          cilities will remain affordable for very-low income  
15          households for a period of not less than 40 years  
16          from the date of transfer, using all available assist-  
17          ance, including renewal of existing Federal assist-  
18          ance contracts and leasing to holders of tenant-  
19          based assistance; and

20          (4) includes such other terms and conditions as  
21          may be required by the Secretary.

22          (f) INCENTIVES.—Notwithstanding any other provi-  
23          sion of law or regulation, the Secretary may, with respect  
24          to a preservation project—

1           (1) suspend physical inspections and manage-  
2           ment reviews of the project, during the period that  
3           begins upon the provision to the Secretary by the  
4           selling owner notice of its election to participate in  
5           the program and ending upon the completion of the  
6           transfer of the preservation project to a preservation  
7           purchaser or termination of participation of the sell-  
8           ing owner in the program;

9           (2) streamline approval of requests for prepay-  
10          ment, assignment of Housing Assistance Payments  
11          contracts, transfer of physical assets, and other ac-  
12          tivities and functions, to facilitate the sale or trans-  
13          fer under the program to a preservation purchaser;

14          (3) release project resources, in the form of re-  
15          serve for replacement funds or project residual re-  
16          ceipts, to the selling owner for purposes related to  
17          preparation of the preservation project for sale  
18          under the program, applicable pre-development  
19          costs, or transaction costs related to sale or transfer  
20          of the preservation project under the program;

21          (4) provide advances in the form of a forgivable  
22          loan for the selling owner to be used for direct  
23          predevelopment and administrative costs for prepa-  
24          ration of the preservation project for sale under the  
25          program, and the transfer of the preservation

1 project to the preservation purchaser, but not in-  
2 cluding compensation for property value beyond the  
3 purchase price;

4 (5) provide grants or loans to a preservation  
5 purchaser who has entered into a bona fide preserva-  
6 tion purchase contract under the program with the  
7 selling owner, which grant or loan funds shall be  
8 used for to purchase or rehabilitate the preservation  
9 project; and

10 (6) provide grants or loans pursuant to section  
11 102(a) of this Act to a preservation purchaser who  
12 has entered into a bona fide preservation purchase  
13 contract under the program with the selling owner.

14 (g) RELEASE OF SELLING OWNER.—Upon closing of  
15 the sale or transfer of the preservation project pursuant  
16 to this section—

17 (1) the selling owner shall be released from obli-  
18 gations with respect to the preservation project  
19 under—

20 (A) the new construction, substantial reha-  
21 bilitation, moderate rehabilitation, property dis-  
22 position, and loan management set-aside pro-  
23 grams, and any other program providing  
24 project-based assistance, under section 8 of the

1 United States Housing Act of 1937 (42 U.S.C.  
2 1437f);

3 (B) the below-market interest rate pro-  
4 gram under paragraphs (3) and (5) of section  
5 221(d)(3) of the National Housing Act (12  
6 U.S.C. 1715(d));

7 (C) section 236 of the National Housing  
8 Act (12 U.S.C. 1715z-1);

9 (D) section 202 of the Housing Act of  
10 1959 (12 U.S.C. 1701q);

11 (E) the rent supplement program under  
12 section 101 of the Housing and Urban Develop-  
13 ment Act of 1965 (12 U.S.C. 1701s); or

14 (F) other Federal affordable housing pro-  
15 grams, as identified by the Secretary; and

16 (2) the preservation purchaser agrees—

17 (A) to operate the preservation project in  
18 accordance with the provisions of this section  
19 and any agreements entered into pursuant to  
20 this section; and

21 (B) to maintain any existing limits or re-  
22 strictions on the amount of tenant rents, rent  
23 contributions, or income eligibility of tenants, or  
24 on the use of the preservation project, as re-  
25 quired by the Secretary, for a period of not less

1           than 40 years from the transfer date, except  
2           that rents may be increased to the extent that  
3           additional project-based assistance is provided  
4           by the Secretary.

5       (h) RENEWAL OF PARTICIPATION IN PROGRAM.—

6           (1) IN GENERAL.—A selling owner who has  
7       participated in the program in good faith for 12  
8       months and does not receive or does not reject a  
9       bona fide preservation purchase offer during that  
10      12-month period of participation may seek approval  
11      of the Secretary to renew its participation for an ad-  
12      ditional 12-month period. A request for renewal  
13      under this paragraph shall be subject to the same  
14      provisions of subsection (c) applicable to a notice of  
15      election to participate in the program.

16          (2) TIMING.—A request for renewal may be  
17      made, but shall not be required to be made, imme-  
18      diately upon the expiration of the selling owner's ini-  
19      tial 12-month period of participation in the program.

20          (3) APPROVAL.—The Secretary may, at the dis-  
21      cretion of the Secretary, approve or reject a renewal  
22      request under this subsection. A renewal request  
23      that is not accepted or rejected by the Secretary  
24      during the 30-day period beginning upon receipt of



1 the request by the Secretary shall be considered for  
2 purposes of this section to have been accepted.

3 (4) TERMS.—A selling owner who renews par-  
4 ticipation in the program shall be subject to the re-  
5 quirements and procedures for participation under  
6 this section for the initial term of participation.

7 (i) DEFINITIONS.—For purposes of this section, the  
8 following definitions shall apply:

9 (1) BONA FIDE PRESERVATION PURCHASE  
10 OFFER.—The term “bona fide preservation purchase  
11 offer” means an offer to purchase a preservation  
12 project that has been determined by the Secretary,  
13 pursuant to subsection (d)(2) to meet the require-  
14 ments under subsection (e).

15 (2) ELIGIBLE JURISDICTION.—The term “eligi-  
16 ble jurisdiction” means an area so designated by the  
17 Secretary for purposes of this section.

18 (3) PRESERVATION CONTRACT.—The term  
19 “preservation contract” means any contract for sale  
20 or transfer of a preservation project pursuant to the  
21 provisions of this section.

22 (4) PRESERVATION EXCHANGE PROGRAM.—The  
23 terms “preservation exchange program” and “pro-  
24 gram” mean the preservation exchange program au-

1       thorized by, and established pursuant to, this sec-  
2       tion.

3               (5) PRESERVATION PROJECT.—The term “pres-  
4       ervation project” means any multifamily housing  
5       project that—

6               (A) has been specifically identified to the  
7       Secretary by a selling owner as available for  
8       purchase or transfer under the preservation ex-  
9       change program;

10              (B) is located in an eligible jurisdiction;

11              (C) is financed by a loan or mortgage that  
12       will mature or expire within 5 years of the elec-  
13       tion by the selling owner to participate in the  
14       preservation exchange program; and

15              (D) is insured or assisted under—

16                      (i) the new construction, substantial  
17       rehabilitation, moderate rehabilitation,  
18       property disposition, and loan management  
19       set-aside programs, or any other program  
20       providing project-based assistance, under  
21       section 8 of the United States Housing Act  
22       of 1937 (42 U.S.C. 1437f);

23                      (ii) the below-market interest rate  
24       program under paragraphs (3) and (5) of

1 section 221(d)(3) of the National Housing  
2 Act (12 U.S.C. 1715(d));

3 (iii) section 236 of the National Hous-  
4 ing Act (12 U.S.C. 1715z-1);

5 (iv) section 202 of the Housing Act of  
6 1959 (12 U.S.C. 1701q);

7 (v) the rent supplement program  
8 under section 101 of the Housing and  
9 Urban Development Act of 1965 (12  
10 U.S.C. 1701s); or

11 (vi) any other Federal affordable  
12 housing program, as identified by the Sec-  
13 retary.

14 (6) PRESERVATION PURCHASER.—The term  
15 “preservation purchaser” means any person or enti-  
16 ty that acquires a preservation project pursuant to  
17 an agreement to participate in the preservation ex-  
18 change program.

19 (7) SECRETARY.—The term “Secretary” means  
20 the Secretary of Housing and Urban Development.

21 (8) SELLING OWNER.—The term “selling  
22 owner” means, with respect to a preservation  
23 project, the person or entity that owns the project  
24 and that has elected to participate in the preserva-  
25 tion exchange program with respect to such project.

1       (j) EFFECT OF PARTICIPATION.—During the time  
2 that the owner is participating in the preservation ex-  
3 change program with respect to a preservation project,  
4 such owner and such project shall not be subject to the  
5 requirements under section 107 of this Act.

6       (k) AUTHORIZATION OF APPROPRIATIONS.—There  
7 are authorized to be appropriated to the Secretary such  
8 sums as may be necessary to carry out this section, includ-  
9 ing amounts for the provision of additional educational  
10 services and training and technical assistance and to pro-  
11 vide information to the public and to potential participants  
12 in the preservation exchange program to facilitate partici-  
13 pation in the program, and for other activities to promote  
14 the preservation of affordable housing.

15       (l) REGULATIONS.—The Secretary shall issue any  
16 regulations necessary to carry out this section.

17 **SEC. 107. FEDERAL FIRST RIGHT OF REFUSAL.**

18       (a) NOTICE OF TERMINATION OF AFFORDABILITY  
19 RESTRICTIONS.—

20               (1) NOTICE OF TERMINATION.—

21                       (A) REQUIREMENT.—Except as provided  
22 in subparagraph (D), an owner of covered hous-  
23 ing shall provide written notice under subpara-  
24 graph (B) of any termination of the afford-  
25 ability restrictions affecting the covered hous-

1 ing, not later than one year, but no earlier than  
2 three years, before such termination to—

3 (i) all tenants and the resident coun-  
4 cil, if any, of the covered housing;

5 (ii) the State housing agency or com-  
6 parable State agency of the State in which  
7 the housing is located; and

8 (iii) the Secretary.

9 Nothing in this section shall prohibit an owner  
10 from taking actions to terminate an afford-  
11 ability restriction during any notice period  
12 under this section; except that an owner shall  
13 comply with all of the notice terms and restric-  
14 tions pursuant to paragraphs (2) and (3).

15 (B) CONTENTS.—Written notice under this  
16 subparagraph with respect to covered housing  
17 shall include—

18 (i) the address of the covered housing;

19 (ii) the name and address of the  
20 owner;

21 (iii) a statement identifying that an  
22 affordability restriction may terminate;

23 (iv) the date on which each afford-  
24 ability restriction may terminate; and

1 (v) such other information as may be  
2 required by the Secretary.

3 (C) SINGLE NOTICE COVERING MULTIPLE  
4 TERMINATIONS.—In any case in which more  
5 than one termination is scheduled to occur  
6 within a 12-month period, an owner may pro-  
7 vide a single written notice covering all such  
8 terminations, but only if the notice is provided  
9 in accordance with subparagraph (A) at least  
10 one year before the earliest such termination  
11 and the notice otherwise complies with this  
12 paragraph.

13 (D) TRANSITION.—Subparagraph (A) shall  
14 not apply with respect to covered housing sub-  
15 ject to an affordability restriction that, as of  
16 the effective date under subsection (j), has less  
17 than two years of applicability remaining. Such  
18 covered housing shall be subject to paragraph  
19 (5).

20 (2) NOTICE OF INTENT TO COMPLETE TERMI-  
21 NATION.—An owner of covered housing shall not  
22 complete a termination or allow a termination to  
23 occur with respect to such housing unless, not later  
24 than one year before the completion of the last ter-  
25 mination event affecting the covered housing, the

owner provides the entities identified in paragraph (1) with written notice of intent to complete such termination. The notice shall include—

(A) the address of the covered housing;

(B) the name and address of the owner;

(C) the date on which the owner intends to complete termination; and

(D) such other information as may be required by the Secretary.

(3) OPPORTUNITY FOR PURCHASE BY SECRETARY.—Except as provided in subsection (d), an owner of covered housing shall not sell the covered housing at any time before—

(A) providing notice, in writing, to the parties identified in paragraph (1) of the owner's intention to sell the property; and

(B) offering the Secretary the opportunity to purchase the property pursuant to subsection (b).

(4) DELIVERY OF NOTICE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any notice required by this subsection shall be deemed to have been provided when delivered in person or mailed by certified or registered mail, return receipt re-

1           requested, to the party to whom notice is re-  
2           quired.

3           (B) NOTICE TO TENANT.—With respect to  
4           any notice to tenants required by this sub-  
5           section, any such notice shall be deemed to have  
6           been provided upon the when—

7                   (i) the notice is delivered in hand to  
8                   the tenant or an adult member of the ten-  
9                   ant’s household;

10                   (ii) the notice is sent by first class  
11                   mail; or

12                   (iii) a copy is left in or under the door  
13                   of the tenant’s dwelling unit.

14           (5) TRANSITION.—Notwithstanding paragraph  
15           (1) of this subsection, an owner of covered housing  
16           who, on the effective date under subsection (j), has  
17           less than one year remaining before the date when  
18           the affordability restriction will cease to apply to  
19           such housing, shall not be required to give the one-  
20           year notice required by paragraph (1), but shall pro-  
21           vide such notice within 90 days after the effective  
22           date under subsection (j). Notwithstanding para-  
23           graph (2) of this subsection, an owner who, on the  
24           effective date under subsection (j), has less than one  
25           year remaining before a termination shall not be re-



1       quired to give the one-year notice required by para-  
2       graph (2), but shall provide such notice within 90  
3       days after such effective date.

4               (6) EFFECT OF OFFER, PURCHASE, OR SALE.—

5       The notice requirements of this subsection shall not  
6       be affected by the status of an offer, purchase con-  
7       tract, or sale under subsection (b) or (c).

8       (b) RIGHT OF SECRETARY TO MAKE OFFER.—

9               (1) OPPORTUNITY FOR PURCHASE BY SEC-  
10       RETARY.—An owner of covered housing shall offer  
11       the Secretary an opportunity to purchase the cov-  
12       ered housing, in accordance with this subsection, be-  
13       fore entering into any agreement to sell such hous-  
14       ing to a third party. This paragraph may not be  
15       construed to establish any obligation on the part of  
16       an owner of covered housing to enter into an agree-  
17       ment to sell such housing to the Secretary.

18              (2) ASSIGNEE OF SECRETARY.—

19              (A) AUTHORITY TO SELECT.—The Sec-  
20       retary may select an assignee to act on behalf  
21       of the Secretary under this subsection as the  
22       purchaser of covered housing and shall give the  
23       owner written notice of any assignee selected.

24              (B) AGREEMENT.—The Secretary shall  
25       enter into a written agreement with any as-

1       signee selected, which shall provide that the as-  
2       signee, and any of its successors or assigns,  
3       agree to preserve the affordability of the cov-  
4       ered housing. Upon entering into such an  
5       agreement, the assignee shall assume all rights  
6       and responsibilities of the Secretary as a pro-  
7       spective purchaser under this subsection and  
8       subsection (c).

9               (C) REVOCATION.—At any time before a  
10       sale of covered housing under this subsection or  
11       subsection (d), the Secretary may revoke the se-  
12       lection and designation of an assignee with re-  
13       spect to the covered housing pursuant to this  
14       paragraph and assume the rights and respon-  
15       sibilities in the Secretary's own capacity or se-  
16       lect a new assignee and enter into an agreement  
17       under subparagraph (B) with such assignee. No  
18       action under this subparagraph shall operate to  
19       extend or alter any time periods for perform-  
20       ance under this section or in any purchase con-  
21       tract entered into pursuant to this section.

22       (3) PURCHASE OFFER.—

23               (A) TIMING.—During the 90-day period  
24       with respect to covered housing that begins  
25       upon receipt of notice pursuant to subsection

1 (a)(3) of the owner's intention to sell the cov-  
2 ered housing, the Secretary may submit an  
3 offer to the owner to purchase the covered  
4 housing.

5 (B) FAILURE TO SUBMIT.—Failure by the  
6 Secretary to submit an offer to purchase cov-  
7 ered housing during the period under subpara-  
8 graph (A) shall constitute an irrevocable waiver  
9 of the Secretary's rights under this subsection  
10 and the owner may sell the covered housing  
11 subject to subsection (c).

12 (C) ACCEPTANCE.—If the owner accepts  
13 the initial or any revised offer of the Secretary,  
14 the owner and the Secretary shall enter into  
15 such other agreements as are necessary and ap-  
16 propriate to complete the purchase. If the  
17 owner and the Secretary have not entered into  
18 an agreement for the Secretary to purchase the  
19 property within 90 days after receipt of the no-  
20 tice pursuant to subsection (a)(3), the owner  
21 may enter into an agreement to sell the prop-  
22 erty to a purchaser of the owner's choice, sub-  
23 ject to subsection (c).

24 (4) AVAILABILITY OF DOCUMENTS.—

1           (A) REQUIREMENT.—If the Secretary  
2 makes a request pursuant to this subparagraph  
3 to the owner of covered housing at any time  
4 after notice required under subsection (a)(1)  
5 has been provided, the owner shall, within 10  
6 days after receiving the request, make the docu-  
7 ments described in subparagraph (B) available  
8 to the Secretary for review and photocopying  
9 during normal business hours at the owner's  
10 principal place of business or at a commercial  
11 photocopying facility.

12           (B) COVERED DOCUMENTS.—The docu-  
13 ments described in this subparagraph with re-  
14 spect to covered housing shall include—

15           (i) any existing architectural plans  
16 and specifications of the covered housing;

17           (ii) itemized lists of monthly operating  
18 expenses and capital expenditures for the  
19 covered housing in each of the two pre-  
20 ceding calendar years;

21           (iii) any capital needs studies or mar-  
22 ket studies for the covered housing that  
23 have been submitted to a Federal, State,  
24 or local agency in the preceding three  
25 years;

1 (iv) utility consumption rates for the  
2 covered housing for preceding year;

3 (v) the last two audited annual finan-  
4 cial statements and physical inspection re-  
5 ports for the covered housing filed with  
6 Federal, State, or local agencies;

7 (vi) the most recent rent roll for the  
8 covered housing showing then-current va-  
9 cancies and rent arrearages;

10 (vii) a statement of the approximate  
11 annualized vacancy rate for the covered  
12 housing for each of the two preceding cal-  
13 endar years; and

14 (viii) any other documents relating to  
15 the covered housing that the Secretary  
16 considers appropriate.

17 (C) PROTECTION OF INFORMATION.—Doc-  
18 uments obtained pursuant to a request under  
19 this paragraph shall not be considered public  
20 records, and the Secretary shall not make such  
21 documents available to the public without the  
22 written consent of the owner or pursuant to a  
23 court order, except that disclosure of such docu-  
24 ments may be made to potential funding  
25 sources, regulatory agencies, or agents or con-

1           sultants of the Secretary in connection with a  
2           purchase transaction pursuant to this sub-  
3           section, subject to appropriate confidentiality  
4           agreements.

5           (5) INSPECTIONS.—

6                 (A) IN GENERAL.—Subject to execution of  
7           an access and confidentiality agreement in ac-  
8           cordance with subparagraph (B), upon request  
9           by the Secretary and with appropriate notice,  
10          the owner shall permit reasonable inspections of  
11          the dwelling units, building systems, common  
12          areas, and common grounds of the covered  
13          housing by agents, consultants, and representa-  
14          tives of the Secretary or the assignee of the  
15          Secretary, including inspections related to envi-  
16          ronmental, engineering, structural, or zoning  
17          matters.

18                (B) ACCESS AND CONFIDENTIALITY  
19          AGREEMENT.—An access and confidentiality  
20          agreement in accordance with this subpara-  
21          graph is an agreement, entered into by the  
22          owner of covered housing and any agents, con-  
23          sultants, or representatives of the Secretary or  
24          the assignee of the Secretary, in a form ap-  
25          proved by the Secretary, with respect to such

1 matters as insurance to be carried by the in-  
2 spectors of the covered housing, indemnities of  
3 the owner, restrictions on invasive testing, res-  
4 toration requirements, the timing of such in-  
5 spections, and the requirement to maintain con-  
6 fidentiality with respect to all matters discov-  
7 ered.

8 (6) NOTIFICATION TO TENANTS.—Not later  
9 than 30 days after the Secretary submits an offer to  
10 purchase the covered housing pursuant to subsection  
11 (c), the Secretary shall notify tenants in the housing  
12 development of its plans.

13 (c) FIRST RIGHT OF REFUSAL.—

14 (1) SALE TO THIRD PARTY.—An owner of cov-  
15 ered housing may execute a purchase contract with  
16 a third party to sell the covered housing pursuant to  
17 this subsection during the one-year period that be-  
18 gins upon the date on which notice for such housing  
19 was provided to the Secretary pursuant to sub-  
20 section (a)(3). After such period expires, the owner  
21 may not sell the housing without providing notice of  
22 such sale in accordance with subsection (a)(3)(A).

23 (2) MATCHING OF THIRD PARTY OFFER BY  
24 SECRETARY OR OTHER PARTY.—

1 (A) NOTICE OF THIRD PARTY PURCHASE  
2 CONTRACT.—Upon execution of a third party  
3 purchase contract for covered housing, the  
4 owner shall, within 7 days, submit a copy of the  
5 contract to the Secretary, the resident council,  
6 if any, all tenants, and the State housing agen-  
7 cy.

8 (B) PURCHASE BY SECRETARY AND AS-  
9 SIGNMENT OF RIGHT TO MATCH OFFER.—In  
10 the case of covered housing for which a third  
11 party purchase contract is executed, the Sec-  
12 retary may—

13 (i) elect to purchase the housing  
14 under a contract under subparagraph (D);  
15 or

16 (ii) assign the right to match the  
17 third party offer for the covered housing  
18 under a contract under subparagraph (D).

19 If the Secretary elects to take action under  
20 clause (i) or (ii), the Secretary shall take such  
21 action, or execute such other agreement as is  
22 acceptable to the owner and the Secretary, dur-  
23 ing the 30-day period that begins upon receipt  
24 by the Secretary of a copy of the third party  
25 purchase contract.



1 (C) EXTENSION OF TIME PERIODS.—The  
2 time periods set forth in this paragraph may be  
3 extended by agreement between the owner and  
4 the Secretary.

5 (D) TERMS OF MATCHING CONTRACT.—  
6 The purchase contract between the owner and  
7 the Secretary or the Secretary's assignee pursu-  
8 ant to this paragraph shall contain the same  
9 material terms and conditions as the executed  
10 third party purchase contract, except that the  
11 purchase contract between the owner and the  
12 assignee shall provide at least the following  
13 terms:

14 (i) AMOUNT OF EARNEST MONEY DE-  
15 POSIT.—The amount of the earnest money  
16 deposit shall not exceed the lesser of—

17 (I) the amount of the deposit  
18 provided under the third party pur-  
19 chase contract;

20 (II) 2 percent of the sale price;

21 or

22 (III) \$250,000.

23 (ii) ESCROW OF EARNEST MONEY DE-  
24 POSIT.—The earnest money deposit shall  
25 be held under commercially reasonable

1 terms by an escrow agent selected jointly  
2 by the owner and the Secretary or the as-  
3 signee of the Secretary.

4 (iii) REFUNDING OF EARNEST MONEY  
5 DEPOSIT.—The earnest money deposit  
6 shall be refundable for not less than 90  
7 days from the date of execution of the pur-  
8 chase contract or such longer period as  
9 provided for in the third party purchase  
10 contract; except that if the owner unrea-  
11 sonably delays the buyer's ability to con-  
12 duct due diligence during the 90-day pe-  
13 riod, the earnest money deposit shall con-  
14 tinue to be refundable for a period greater  
15 than 90 days.

16 (iv) TIME FOR PERFORMANCE.—The  
17 time for performance shall be no sooner  
18 than 240 days after the date of the execu-  
19 tion of the purchase contract, or such later  
20 date provided for in the third party pur-  
21 chase contract.

22 (3) FAILURE TO EXECUTE PURCHASE CON-  
23 TRACT BY SECRETARY OR ASSIGNEE.—If the Sec-  
24 retary, or the assignee, fails to execute a proposed  
25 purchase contract during the 30-day period under

1 paragraph (2)(B) (as such period may be extended  
2 pursuant to paragraph (2)(C)), the owner may, dur-  
3 ing the 2-year period beginning upon expiration of  
4 such 30-day (or extended) period, complete a sale of  
5 the owner's covered housing to a third party, except  
6 as provided in paragraph (5). After the expiration of  
7 such 2-year period, the owner may not sell the hous-  
8 ing without, after such expiration, complying with  
9 paragraph (3) of subsection (a) and with this sub-  
10 section.

11 (4) FAILURE TO PERFORM PURCHASE CON-  
12 TRACT BY SECRETARY OR ASSIGNEE.—If the Sec-  
13 retary, or the assignee, executes the proposed pur-  
14 chase contract as provided in paragraph (2) but fails  
15 to perform as provided in the executed purchase con-  
16 tract, the owner may, during the 2-year period be-  
17 ginning upon the date on which the executed pur-  
18 chase contract terminated, complete a sale of the  
19 owner's covered housing to a third party. After the  
20 expiration of such 2-year period, the owner may not  
21 sell the housing without, after such expiration, com-  
22 plying with paragraph (3) of subsection (a) and with  
23 this subsection.

24 (5) COUNTEROFFER.—

1           (A) OPPORTUNITY.—After receipt of the  
2           third party purchase contract provided for in  
3           paragraph (2), the Secretary may, during the  
4           30-day period under paragraph (2), make a  
5           counteroffer by executing and submitting to the  
6           owner an amended proposed purchase contract,  
7           or by assigning the right to make such a  
8           counteroffer to an assignee.

9           (B) ASSIGNMENT.—If the Secretary as-  
10          signs the right under subparagraph (A) to  
11          make a counteroffer, the assignee may, during  
12          the 15-day period that begins upon such assign-  
13          ment or the remaining period remaining in the  
14          30-day period under paragraph (2), whichever  
15          is longer, make such a counteroffer.

16          (C) FAILURE BY SECRETARY TO EXECUTE  
17          OR ASSIGN.—Failure by the Secretary to exe-  
18          cute or assign the purchase contract or submit  
19          a counteroffer during the 30-day period under  
20          paragraph (2) shall constitute a waiver of the  
21          Secretary's right to purchase under this sub-  
22          section.

23          (D) PERIOD FOR OWNER RESPONSE.—If  
24          the Secretary or an assignee submits a  
25          counteroffer pursuant to this paragraph, the

1 owner may, during the 30-day period beginning  
2 upon receipt of the amended proposed purchase  
3 contract, execute the amended proposed pur-  
4 chase contract or reject the counteroffer in  
5 writing.

6 (E) REJECTION BY OWNER.—If the owner  
7 rejects the counteroffer, the owner may, during  
8 the 2-year period beginning on the date of such  
9 rejection, complete a sale of the covered housing  
10 to a third party. If such sale is upon economic  
11 terms and conditions that are the same as, or  
12 materially more favorable to the proposed pur-  
13 chaser than, the economic terms and conditions  
14 in the proposed purchase contract offered by  
15 the Secretary or assignee in the Secretary's or  
16 assignee's counteroffer, the owner shall, within  
17 7 days after such execution, provide a copy of  
18 the new third party purchase contract, along  
19 with a proposed purchase contract for execution  
20 by the Secretary or assignee, which shall con-  
21 tain the same terms and conditions as the exe-  
22 cuted third party purchase contract. The Sec-  
23 retary or assignee may, during the 30-day pe-  
24 riod beginning upon receipt of the third party  
25 purchase contract and the proposed purchase

1 contract, execute the proposed purchase con-  
2 tract or such other agreement as is acceptable  
3 to the owner and the Secretary or assignee.

4 (6) PROVISION OF THIRD PARTY CONTRACT TO  
5 SECRETARY.—If any owner executes any purchase  
6 contract with a third party during any of the 2-year  
7 periods referred to paragraph (3), (4), or (5), the  
8 owner shall—

9 (A) not later than 7 after such execution,  
10 provide the Secretary with a copy of the new or  
11 amended purchase contract executed with re-  
12 spect to the covered housing; and

13 (B) not later than 7 days after the record-  
14 ing or filing of the deed or other document with  
15 the registry of deeds or the registry district of  
16 the land court of the county in which the af-  
17 fected covered housing is located, provide the  
18 Secretary with a copy of any such deed or other  
19 document transferring the owner's interest in  
20 the covered housing.

21 (7) CERTIFICATION BY OWNER.—Any third  
22 party purchase contract, amended third party pur-  
23 chase contract, deed, or any other document trans-  
24 ferring the owner's interest in covered housing shall  
25 include a certification by the owner that the docu-

1       ment is accurate and complete and that there are no  
2       other agreements between the owner and the third  
3       party buyer, or an affiliate of either, with respect to  
4       the sale of the covered housing.

5       (d) EXEMPTIONS.—

6               (1) INAPPLICABILITY OF FIRST RIGHT OF RE-  
7       FUSAL.—Subsection (b) and (c) shall not apply to  
8       any of the following actions:

9               (A) A government taking of covered hous-  
10       ing by eminent domain or a negotiated pur-  
11       chase in lieu of eminent domain.

12              (B) A forced sale of covered housing pur-  
13       suant to a foreclosure.

14              (C) A deed-in-lieu of foreclosure for cov-  
15       ered housing.

16              (D) A proposed sale of covered housing to  
17       a purchaser pursuant to terms and conditions  
18       that preserve affordability, as determined by  
19       the Secretary (including sales or transfers pur-  
20       suant to section 106 of this Act).

21              (E) A proposed sale of covered housing—

22                      (i) that the Secretary has determined  
23       was not, as of the effective date under sub-  
24       section (j), receiving Federal assistance nor  
25       subject to regulation by any of the pro-

grams identified in subsection (g)(4), other than the program identified in subsection (g)(4)(A); and

(ii) under which the buyer has agreed, as provided in a regulatory agreement, to renew in whole, all contracts for project-based assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) or any successor program thereto; such renewal shall be subject to the availability, at the time of such renewal, of such assistance to the owner on economic terms and conditions that are comparable to the existing project-based rental assistance contract.

(F) A proposed sale of covered housing to an affiliate of the owner that is not a termination, as determined by the Secretary.

(G) A proposed sale of covered housing with respect to which the first scheduled termination will occur more than 15 years after the date of the sale.

(H) A bona fide proposed sale pursuant to a purchase contract in effect on the effective date under subsection (j).



1           (2) REQUIREMENT TO SUBMIT REQUEST.—The  
2       Secretary shall make a determination that an ex-  
3       emption under subparagraph (D), (E), or (F) of  
4       paragraph (1) applies only pursuant to a written re-  
5       quest for such an exemption submitted by the owner  
6       of the covered housing. Such a request shall include  
7       the name and address of any resident council for the  
8       covered housing. The Secretary shall provide a copy  
9       of the Secretary’s determination under subparagraph  
10      (D), (E), or (F) of paragraph (1) to the owner and  
11      the resident council.

12      (e) REGULATORY AGREEMENT.—A purchase of cov-  
13   ered housing by the Secretary or an assignee of the Sec-  
14   retary pursuant to this section shall be subject to a regu-  
15   latory agreement. Such a regulatory agreement shall not  
16   contain any terms or conditions that would preclude an  
17   owner or purchaser from participating in, or diminishing  
18   the benefits that an owner would otherwise receive by par-  
19   ticipating in the mark-to-market program of the Depart-  
20   ment under Multifamily Assisted Housing Reform and Af-  
21   fordability Act of 1997 (42 U.S.C. 1437f note).

22      (f) CERTIFICATE OF COMPLIANCE.—

23           (1) ISSUANCE.—An owner of covered housing  
24      who has complied with subsections (a), (b), and (c),  
25      which has not resulted in a purchase by the Sec-

1       retary or the assignee of the Secretary of the cov-  
2       ered housing, or which has resulted in a sale of the  
3       covered housing pursuant to subsection (c), may  
4       apply to the Secretary for a certificate of compliance  
5       by submitting a written request for the certificate, in  
6       such form and together with such documentation as  
7       the Secretary shall require. The Secretary shall issue  
8       the certificate of compliance within 30 days after re-  
9       ceipt of the application if the Secretary determines  
10      that the owner has complied with said subsections  
11      (a), (b), and (c) and such certificate shall establish  
12      the owner's compliance to the satisfaction of the  
13      Secretary.

14           (2) FILING.—An owner obtaining a certificate  
15      of compliance with respect to covered housing shall  
16      file the certificate with the registry of deeds or the  
17      registry district of the land court of the county in  
18      which the covered housing is located not later than  
19      one year after the date of issuance.

20           (3) PROVISION TO TENANTS.—Upon request by  
21      any tenant of the affected covered housing, the  
22      owner shall provide a copy of the owner's request for  
23      a certificate of compliance.

24           (g) RELATIONSHIP WITH OTHER LAWS.—This sec-  
25      tion shall not preempt any State or local law that has es-

1 tablished a right of first refusal to preserve affordable  
2 housing that is on terms and conditions that are com-  
3 parable to this section, establishes such a right after the  
4 effective date under subsection (j). Any covered housing  
5 located in a State or locality with such a right of first  
6 refusal shall not be subject to this section.

7 (h) DEFINITIONS.—For the purposes of this section,  
8 the following definitions shall apply:

9 (1) AFFILIATE.—The term “affiliate” means an  
10 entity owned or controlled by an owner or under  
11 common control with the owner.

12 (2) AFFORDABILITY RESTRICTION.—The term  
13 “affordability restriction” means, with respect to  
14 covered housing, a limit on rents that an owner may  
15 charge for occupancy of a rental unit in the housing  
16 or a limit on tenant income for persons or families  
17 seeking to qualify for admission to such housing.

18 (3) ASSIGNEE.—The term “assignee” means a  
19 State agency, local or regional housing authority,  
20 nonprofit or for profit corporation, or other entity  
21 qualified to do business in the affected State, that  
22 is selected by the Secretary to operate covered hous-  
23 ing that is decent, safe, and sanitary affordable  
24 housing in a manner to be determined by the Sec-  
25 retary.

1           (4) COVERED HOUSING.—The term “covered  
2       housing” means a housing unit or development that  
3       receives Federal assistance under any of the fol-  
4       lowing programs or provisions:

5           (A) The programs under section 8 of the  
6       United States Housing Act of 1937 (42 U.S.C.  
7       1437f) for new construction, substantial reha-  
8       bilitation, moderate rehabilitation, property dis-  
9       position, and loan management set-aside, and  
10      any other Federal program providing project-  
11      based rental assistance.

12          (B) The Federal program for low-income  
13      housing tax credits under section 42 of the In-  
14      ternal Revenue Code of 1986 (26 U.S.C. 42).

15          (C) The program for rent supplement as-  
16      sistance under section 101 of the Housing and  
17      Urban Development Act of 1965 (12 U.S.C.  
18      1701s).

19          (D) Section 202 of the Housing Act of  
20      1959 (12 U.S.C. 1701q).

21          (E) The below-market interest rate pro-  
22      gram under paragraphs (3) and (5) of  
23      221(d)(3) of the National Housing Act (12  
24      U.S.C. 1715(d) (3) and (5)).

1           (F) Section 221(d)(4) of the National  
2           Housing Act (12 U.S.C. 1715(d)(4)), to the ex-  
3           tent the project's rents are restricted pursuant  
4           to a government agreement.

5           (G) A contract under section 236(f)(2) of  
6           the National Housing Act (12 U.S.C. 1715z-  
7           1(f)(2)).

8           (H) Section 236 of the National Housing  
9           Act (12 U.S.C. 1715z-1) and any comparable  
10          State program providing for interest reduction  
11          payments or rental assistance payments.

12          (I) Sections 514, 515, and 516 of the  
13          Housing Act of 1949 (42 U.S.C. 1484, 1485,  
14          and 1486).

15          (J) Section 521 of the Housing Act of  
16          1949 (42 U.S.C. 1490a).

17          (K) The urban development action grant  
18          program under section 119 of the Housing and  
19          Community Development Act of 1974 (42  
20          U.S.C. 5318), to the extent that the afford-  
21          ability of dwelling units subject to such pro-  
22          gram are restricted pursuant to a government  
23          agreement.

24          (L) The rental development grant program  
25          under section 17(d) of the United States Hous-

1           ing Act of 1937 (42 U.S.C. 1437o), as in effect  
2           before October 1, 1989, to the extent that rents  
3           of a project assisted under such program are  
4           restricted pursuant to a government agreement.

5           (5) DEPARTMENT.—The term “Department”  
6           means the Department of Housing and Urban De-  
7           velopment.

8           (6) LOW-INCOME FAMILY.—The term “low-in-  
9           come family” has the meaning given such term in  
10          section 3(b) of the Unites States Housing Act of  
11          1937 (42 U.S.C. 1437a(b)).

12          (7) OWNER.—The term “owner” means, with  
13          respect to covered housing, the person, firm, part-  
14          nership, corporation, trust, organization, limited li-  
15          ability company, or other entity, or its successors or  
16          assigns, that holds title to the housing.

17          (8) PREPAYMENT.—The term “prepayment”  
18          means—

19                (A) the payment in full, or the refinancing,  
20                of a federally insured or federally held mortgage  
21                loan indebtedness prior to the original maturity  
22                date,

23                (B) the voluntary cancellation of mortgage  
24                insurance on covered housing, or

1 (C) the payment in full of a government  
2 contract,  
3 any of which would have the effect of removing (i)  
4 the affordability restrictions applicable to covered  
5 housing, or (ii) a requirement to renew any such af-  
6 fordability restrictions

7 (9) PURCHASE CONTRACT.—The term “pur-  
8 chase contract” means a binding written agreement  
9 under which an owner agrees to sell covered housing  
10 including, without limitation, a purchase and sale  
11 agreement, contract of sale, purchase option, or  
12 other similar instrument.

13 (10) RESIDENT COUNCIL.—

14 (A) IN GENERAL.—The term “resident  
15 council” means, with respect to covered hous-  
16 ing, any incorporated nonprofit organization or  
17 association that—

18 (i) is representative of the residents of  
19 the covered housing;

20 (ii) adopts written procedures pro-  
21 viding for the election of officers on a reg-  
22 ular basis; and

23 (iii) has a democratically elected gov-  
24 erning board, elected by the residents of  
25 the covered housing.

1 (B) LIMITATION.—No owner of covered  
2 housing or other third party shall be required  
3 to ascertain an organization's or association's  
4 compliance with the requirements of subpara-  
5 graph (A).

6 (11) SALE.—

7 (A) IN GENERAL.—The term “sale” means  
8 an act by which an owner conveys, transfers, or  
9 disposes property by deed or otherwise, whether  
10 through a single transaction, or a series of  
11 transactions, during a 2-year period.

12 (B) LIMITATION.—Such term does not in-  
13 clude disposition of covered housing by an  
14 owner to an affiliate of such owner.

15 (12) SECRETARY.—The term “Secretary”  
16 means the Secretary of Housing and Urban Develop-  
17 ment.

18 (13) STATE HOUSING AGENCY.—The term  
19 “State housing agency” means the department of  
20 housing or department of housing and community  
21 development of a State, or any comparable State  
22 agency.

23 (14) TENANT.—The term “tenant” means, with  
24 respect to covered housing, a person entitled to pos-  
25 session or occupancy of a rental unit within the cov-



1       ered housing, including a subtenant, lessee, and sub-  
2       lessee.

3           (15) TERMINATION.—The term “termination”  
4       means, with respect to covered housing, the date  
5       that—

6           (A) the mortgage or loan for the housing  
7       matures and the affordability restrictions appli-  
8       cable to the housing because of assistance for  
9       the housing pursuant to a program referred to  
10      in paragraph (4) terminate with respect to the  
11      housing;

12          (B) an assistance contract under a pro-  
13      gram referred to in paragraph (4) for the hous-  
14      ing that is not renewed, terminates, or expires;

15          (C) in the case of housing that is not eligi-  
16      ble low-income housing, as such term is defined  
17      in section 229 of the Low-Income Housing  
18      Preservation and Resident Homeownership Act  
19      of 1990 (12 U.S.C. 4119), the mortgage or  
20      loan that covers the housing is prepaid or an  
21      insurance contract that covers the housing ter-  
22      minates; or

23          (D) use restrictions imposed with respect  
24      to the housing pursuant to the Emergency Low

1           Income Housing Preservation Act of 1987 ex-  
2           pire.

3           (i) REGULATIONS.—The Secretary shall issue regula-  
4           tions to carry out this section not later than the effective  
5           date under subsection (j). This subsection shall take effect  
6           upon the date of the enactment of this Act.

7           (j) EFFECTIVE DATE.—Except as otherwise specifi-  
8           cally provided in this section, this section shall take upon  
9           the expiration of the 180-day period beginning on the date  
10          of the enactment of this Act.

11   **SEC. 108. AMENDMENT TO LOW-INCOME HOUSING PRESER-**  
12                           **VATION AND RESIDENT HOMEOWNERSHIP**  
13                           **ACT OF 1990.**

14          Section 232 of the Low-Income Housing Preservation  
15          and Resident Homeownership Act of 1990 (12 U.S.C.  
16          4122) is amended—

17               (1) in subsection (a), by striking “No State”  
18               and inserting “Except as provided in subsection (c),  
19               no State”; and

20               (2) by adding at the end the following new sub-  
21               section:

22               “(c) INAPPLICABILITY TO HOUSING FOR WHICH NO  
23          PLAN OF ACTION IS EXECUTED.—Preemption under sub-  
24          section (a) shall not apply to eligible low-income housing

1 for which an owner has not executed a plan of action for  
2 incentives under this subtitle.

3 “(d) CLARIFICATION OF CONGRESSIONAL INTENT  
4 REGARDING FEDERAL PREEMPTION.—State and local  
5 laws intended to further the preservation of affordable  
6 housing or to protect tenants when owners propose to ter-  
7 minate their participation in Federal affordable housing  
8 programs are not preempted by Federal law, except as ex-  
9 pressly required by the terms of any applicable Federal  
10 statute.”.

11 **SEC. 109. PRESERVATION OF HUD-HELD AND HUD-OWNED**  
12 **BUILDINGS.**

13 (a) USE OF ALL AVAILABLE ENFORCEMENT AND  
14 INTERVENTION TOOLS.—To maximize the preservation of  
15 existing housing assisted by the Department of Housing  
16 and Urban Development, the Secretary of Housing and  
17 Urban Development shall utilize all available enforcement  
18 and intervention tools to stabilize properties in distress,  
19 including acting as mortgagee-in-possession, accepting  
20 deeds in lieu of foreclosure from owners, and exercising  
21 rights under applicable program contacts and regulations.

22 (b) MANAGEMENT AND DISPOSITION AUTHORITY.—  
23 Subsection (a) of 204 of the Departments of Veterans Af-  
24 fairs and Housing and Urban Development, and Inde-

1 pendent Agencies Appropriations Act, 1997 (12 U.S.C.  
2 1715z-11a(a)) is amended—

3 (1) by striking “During” and all that follows  
4 through “and thereafter, the provision of” and in-  
5 serting “In managing and disposing of multifamily  
6 properties that are owned by the Secretary or that  
7 have mortgages held by the Secretary, during any  
8 fiscal year, the Secretary may provide”;

9 (2) by striking “and multifamily mortgages held  
10 by the Secretary”; and

11 (3) by striking “notwithstanding any other pro-  
12 vision” and inserting “consistent with other applica-  
13 ble provisions”.

14 **SEC. 110. AUTHORITY FOR HUD TO ASSIGN FLEXIBLE SUB-**  
15 **SIDY LOANS.**

16 The Secretary of Housing and Urban Development  
17 may, in connection with a preservation transaction or  
18 transfer of an assisted project to an owner that commits  
19 to long-term use and affordability restrictions with respect  
20 to the property to forgive or assign to the transferee any  
21 debt held by the Secretary that was created pursuant to  
22 section 201 of the Housing and Community Development  
23 Amendments of 1978 (12 U.S.C. 1715z-1a), if required  
24 for the financial viability of the preservation transaction  
25 or the transfer. If any low-income housing tax credits

1 under section 42 of the Internal Revenue Code of 1986  
2 (26 U.S.C. 42), State or local funds, tax-exempt housing  
3 bonds, or other affordable housing resources are being uti-  
4 lized by the purchaser in connection with the transfer of  
5 the property, the Secretary shall not require any repay-  
6 ment in connection with the assignment or forgiveness of  
7 the mortgages to the purchaser.

8 **SEC. 111. USE OF EXISTING SECTION 8 FUNDS TO PRE-**  
9 **SERVE AND REVITALIZE AFFORDABLE HOUS-**  
10 **ING.**

11 Section 8 of the United States Housing Act of 1937  
12 (42 U.S.C. 1437f) is amended by adding at the end the  
13 following:

14 “(ff) AFFORDABLE HOUSING PRESERVATION AND  
15 REVITALIZATION PROGRAM.—

16 “(1) IN GENERAL.—The Secretary of Housing  
17 and Urban Development shall ensure that funds in  
18 the residual receipts account of an eligible multi-  
19 family housing property are, at the time of a quali-  
20 fied sale or pursuant to an approved rehabilitation  
21 plan approved by the Secretary or the section 8 con-  
22 tract administrator, transferred or released, in con-  
23 junction with an approved rehabilitation plan, to the  
24 acquiring owner.

1           “(2) USE OF RESIDUAL RECEIPT FUNDS BY  
2           PURCHASER.—An owner that acquires an assisted  
3           multifamily housing property through a qualified  
4           sale shall, subject to the approval of the Secretary,  
5           use the funds in the residual receipts account trans-  
6           ferred to it, or for its benefit—

7                   “(A) to pay for rehabilitation costs;

8                   “(B) to deposit funds into the replacement  
9           reserve account of the property;

10                  “(C) to pay for social and other services  
11           that directly benefit the tenants of such prop-  
12           erty;

13                  “(D) to pay for costs associated with the  
14           acquisition of the property; and

15                  “(E) to pay for any other costs, as deter-  
16           mined eligible by the Secretary.

17           “(3) USE OF RESIDUAL RECEIPTS BY OWNERS  
18           TO PRESERVE AND RENEW AFFORDABLE HOUS-  
19           ING.—Subject to approval and any requirements es-  
20           tablished by the Secretary, an owner of an eligible  
21           multifamily housing property may use funds in the  
22           residual receipts account for the property to—

23                   “(A) reduce operating or cash flow deficits  
24           when such use would prevent an increase in  
25           rental rates for tenants;

1           “(B) make a mortgage payment when a  
2 mortgage default is actual or imminent;

3           “(C) pay for rehabilitation costs, which  
4 may include—

5               “(i) making repairs to the property  
6 not otherwise covered by a reserve for re-  
7 placements or other similar fund;

8               “(ii) providing additional project  
9 amenities and improvements, such as air  
10 conditioning, a sprinkler system, fire or  
11 smoke detectors, energy saving devices or  
12 improvements, office equipment, and com-  
13 puters and associated software; and

14               “(iii) making enhancements to the  
15 property or retrofit units to enhance acces-  
16 sibility;

17           “(D) pay accrued, allowable distributions  
18 in cases in which insufficient surplus cash is  
19 available;

20           “(E) repay residual receipt notes approved  
21 by the Secretary;

22           “(F) repay flexible subsidy operating as-  
23 sistance or capital improvements loans provided  
24 under section 201 of the Housing and Commu-

1           nity Development Amendments of 1978 (12  
2           U.S.C. 1715z-1a);

3           “(G) provide for testing or abatement of  
4           lead-based paint at the property;

5           “(H) provide for social and other services  
6           that directly benefit the tenants of such prop-  
7           erty; and

8           “(I) pay for any costs or purposes, as de-  
9           termined eligible by the Secretary.

10          “(4) DELEGATION OF AUTHORITY TO SECTION  
11          8 CONTRACT ADMINISTRATOR OR OTHER ENTITY.—

12          At the request of a section 8 contract administrator  
13          or other appropriate entity, as determined by the  
14          Secretary, that administers assistance referred to in  
15          paragraph (5)(A)(i) with respect to an eligible multi-  
16          family housing property, the Secretary may delegate  
17          to such agency the authority of the Secretary under  
18          paragraph (2) or (3), or both, to approve the use of  
19          funds in residual receipt accounts for properties so  
20          assisted by such agency as provided in such para-  
21          graph or paragraphs.

22          “(5) DEFINITIONS.—For purposes of this sub-  
23          section, the following definitions shall apply:



1           “(A) ELIGIBLE MULTIFAMILY HOUSING  
2           PROPERTY.—The term ‘eligible multifamily  
3           housing property’ means a property that—

4                   “(i) is assisted under any program  
5                   providing project-based assistance under  
6                   section 8 of the United States Housing Act  
7                   of 1937 (42 U.S.C. 1437f); and

8                   “(ii) is subject to regulations of the  
9                   Secretary in effect on the date of enact-  
10                  ment of this subsection that require remit-  
11                  tance of excess funds to the Secretary  
12                  upon termination of the project-based as-  
13                  sistance contract.

14          “(B) QUALIFIED SALE.—

15                  “(i) IN GENERAL.—The term ‘quali-  
16                  fied sale’ means the sale or other transfer  
17                  of an eligible multifamily housing property  
18                  to an owner who agrees to maintain afford-  
19                  ability and use restrictions regarding the  
20                  property that are—

21                          “(I) for a term of not less than  
22                          30 years from the time of the quali-  
23                          fied sale; and

24                          “(II) legally enforceable.

1 “(ii) FUTURE APPLICABILITY OF RE-  
2 STRICTIONS.—The restrictions under sub-  
3 paragraph (A) shall be—

4 “(I) binding on all successors  
5 and assigns of the qualified preserva-  
6 tion owner; and

7 “(II) recorded as a restrictive  
8 covenant on the property pursuant to  
9 State law.

10 “(C) RESIDUAL RECEIPTS.—The term ‘re-  
11 sidual receipts’ means—

12 “(i) funds generated by a property in  
13 excess of the amount needed for operating  
14 expenses, operating reserve requirements,  
15 and allowable distributions to project own-  
16 ers; and

17 “(ii) includes any other funds that the  
18 Secretary, in his or her discretion, des-  
19 ignates as residual receipts.

20 “(6) RESIDUAL RECEIPTS NOT TREATED AS  
21 FEDERAL FUNDS.—For the purposes of section 42  
22 of the Internal Revenue Code of 1986, residual re-  
23 ceipts used or transferred under this section shall  
24 not be considered Federal funds.”.

1 **SEC. 112. AUTHORITY FOR GINNIE MAE TO SECURITIZE**  
2 **FHA RISK-SHARING MORTGAGES.**

3 (a) **AUTHORITY.**—Section 542 of the Housing and  
4 Community Development Act of 1992 (12 U.S.C. 1715z–  
5 22) is amended—

6 (1) in subsection (b), by striking paragraph (8)  
7 and inserting the following new paragraph:

8 “(8) **GINNIE MAE SECURITIZATION.**—The Gov-  
9 ernment National Mortgage Association may  
10 securitize any multifamily loan insured or reinsured  
11 under this subsection under the same terms and  
12 conditions as if the loan were insured under the Na-  
13 tional Housing Act.”; and

14 (2) in subsection (c), by striking paragraph (6)  
15 and inserting the following new paragraph:

16 “(6) **GINNIE MAE SECURITIZATION.**—The Gov-  
17 ernment National Mortgage Association may  
18 securitize any multifamily loan insured under this  
19 subsection under the same terms and conditions as  
20 if the loan were insured under the National Housing  
21 Act.”.

22 (b) **LIMITATION.**—Section 542 of the Housing and  
23 Community Development Act of 1992 is amended by add-  
24 ing at the end the following new subsection:

25 “(d) **LIMITATION.**—In carrying out subsections  
26 (b)(8) and (c)(6), the Secretary shall prohibit State hous-

1 ing finance agencies from giving preference to, or condi-  
 2 tioning the approval of, awards of subordinate debt funds,  
 3 allocation of tax credits, or tax exempt bonds based on  
 4 the use of financing for the first mortgage that is provided  
 5 by such State housing finance agency.”.

6 (c) CONFORMING AMENDMENT.—Clause (ii) of the  
 7 first sentence of section 306(g)(1) of the National Hous-  
 8 ing Act (12 U.S.C. 1721(g)(1)) is amended by inserting  
 9 before the period at the end the following: “; or insured  
 10 or reinsured under subsection (b) or (c) of section 542  
 11 of the Housing and Community Development Act of 1992,  
 12 subject to the terms of paragraph (8) or (6), respectively,  
 13 of such subsection”.

## 14 **TITLE II—RESTORATION OF** 15 **HOUSING AT RISK OF LOSS** 16 **DUE TO DETERIORATION**

### 17 **SEC. 201. AUTHORITY TO TRANSFER RENTAL ASSISTANCE** 18 **TO OTHER PROPERTIES.**

19 (a) AUTHORITY.—Subject to subsection (b) and not-  
 20 withstanding any other provision of law, the Secretary of  
 21 Housing and Urban Development may authorize the  
 22 transfer of some or all of project-based assistance, debt,  
 23 interest reduction payments, and statutorily required low-  
 24 income and very low-income use restrictions, associated  
 25 with one or more covered multifamily housing properties

1 to another covered multifamily housing property or prop-  
2 erties located in the same metropolitan area.

3 (b) PHASED TRANSFERS.—Transfers of project-  
4 based assistance under this section may be done in phases  
5 to accommodate the financing and other requirements re-  
6 lated to improving or constructing the property or prop-  
7 erties to which the assistance is transferred to ensure that  
8 such property or properties meet the standards under sub-  
9 section (c).

10 (c) CONDITIONS.—A transfer authorized in sub-  
11 section (a) shall be subject to the following conditions:

12 (1) TOTAL NUMBER OF LOW-INCOME UNITS.—

13 The number of low-income and very low-income  
14 dwelling units provided by the transferring property  
15 or properties shall remain the same as the number  
16 of such dwelling units in the receiving property or  
17 properties. Upon transfer of subsidy, vacant, non-  
18 viable, or obsolete units may be replaced with units  
19 that meet the demands of the local waiting list for  
20 assistance under section 8 of the United States  
21 Housing Act of 1937 (42 U.S.C. 1437f) or current  
22 market demand, but only if there is no impact on as-  
23 sisted residents of such units.

24 (2) NET AMOUNT OF ASSISTANCE.—The net  
25 dollar amount of Federal assistance provided to the

1 transferring property or properties shall remain the  
2 same as the net dollar amount of Federal assistance  
3 provided to the receiving property or properties, un-  
4 less an increase in Federal assistance is necessary to  
5 secure project financing, to allow rent increases per-  
6 mitted under the Multifamily Affordable Housing  
7 Reform and Affordability Act of 1997 (42 U.S.C.  
8 1437f note), to accommodate allowable reconfigura-  
9 tions of the units and bedrooms, or to allow stand-  
10 ard contract extensions, or simultaneous termination  
11 of current contracts with extensions of new contract  
12 authority, similar to that extended to comparable  
13 properties, as determined by the Secretary.

14 (3) CONDITION OF TRANSFERRING PROP-  
15 erty.—The transferring property shall, as deter-  
16 mined by the Secretary, be physically obsolete or  
17 economically non-viable.

18 (4) CONDITION OF RECEIVING PROPERTY.—The  
19 receiving property shall meet or exceed applicable  
20 physical standards established by the Secretary with-  
21 in a reasonable period of time, as determined by the  
22 Secretary.

23 (5) TENANT PROTECTION.—

24 (A) NOTIFICATION AND CONSULTATION.—

25 The owner or mortgagor of the transferring

1 property shall notify and consult with the ten-  
2 ants of the transferring property concerning all  
3 significant elements of the transfer plan, includ-  
4 ing the identification of receiving properties and  
5 any proposed additional ownership entities.

6 (B) BEST INTEREST OF TENANTS; FAIR  
7 HOUSING.—The transfer shall, as determined  
8 by the Secretary—

9 (i) be in the best interest of the ten-  
10 ants; and

11 (ii) comply with applicable statutes  
12 and regulations relating to fair housing.

13 (6) AVAILABILITY OF NEW UNITS.—The ten-  
14 ants of the transferring property shall not be re-  
15 quired to vacate their dwelling units in the transfer-  
16 ring property until new units in the receiving prop-  
17 erty or properties are available for occupancy, in-  
18 cluding a phase or phases of a multi-phase project  
19 or projects that are available for occupancy. Tenants  
20 may choose to be temporarily relocated to facilitate  
21 their transition to the receiving property according  
22 to relocation procedures set forth in the Uniform  
23 Relocation Assistance and Real Property Acquisition  
24 Act of 1970 (42 U.S.C. 4601 et seq.).

1           (7) MORTGAGES UNDER NATIONAL HOUSING  
2     ACT.—Any lien on the receiving property resulting  
3     from additional financing obtained by the owner  
4     shall be subordinate to any lien under a mortgage  
5     insured under the National Housing Act that is  
6     transferred to, or placed on, such property by the  
7     Secretary, except that the Secretary may waive this  
8     requirement upon determination that such waiver is  
9     necessary to facilitate the financing of acquisition,  
10    construction, or rehabilitation of the receiving prop-  
11    erty.

12          (8) HOUSING SUBJECT TO A USE AGREE-  
13    MENT.—The owner or mortgagor of the receiving  
14    property shall execute and record a continuation of  
15    the existing use agreement or a new use agreement  
16    for the property containing use restrictions having a  
17    duration at least as long as the existing restrictions.

18          (9) NO INCREASE OF RISK TO INSURANCE  
19    FUNDS.—The transfer under this section shall result  
20    in no increase in financial risk to the General and  
21    Special Risk Insurance Funds of the Secretary, as  
22    determined by the Secretary, except that the Sec-  
23    retary may waive this requirement upon determina-  
24    tion that such waiver is necessary to facilitate the fi-



1       nancing of acquisition, construction, or rehabilitation  
2       of the receiving property.

3           (10) NO INCREASE OF FEDERAL LIABILITY.—  
4       Federal liability with regard to the receiving prop-  
5       erty shall not be increased, as determined by the  
6       Secretary, except as provided in paragraph (2).

7       (d) DEFINITIONS.—For purposes of this section, the  
8       following definitions shall apply:

9           (1) COVERED MULTIFAMILY HOUSING PROP-  
10       ERTY.—The term “covered multifamily housing  
11       property” means housing that is assisted or insured  
12       under one or more of the following programs:

13           (A) The rent supplement program under  
14       section 101 of the Housing and Urban Develop-  
15       ment Act of 1965 (12 U.S.C. 1701s).

16           (B) The below-market interest rate mort-  
17       gage insurance program under section  
18       221(d)(3) of the National Housing Act (12  
19       U.S.C. 17151(d)(3)).

20           (C) The program for assistance provided  
21       under the proviso in section 221(d)(5) of the  
22       National Housing Act (12 U.S.C. 17151(d)(5)).

23           (D) A contract under section 236(f)(2) of  
24       the National Housing Act (12 U.S.C. 1715z-  
25       1(f)(2)).

1           (E) The program for interest reduction  
2           payments under section 236 of the National  
3           Housing Act (12 U.S.C. 1715z-1) or a com-  
4           parable State program providing for interest re-  
5           duction payments.

6           (F) Any other mortgage insurance pro-  
7           gram provided under the National Housing Act  
8           for which the insured property is subject to  
9           budget-based rent restrictions.

10          (G) The program for supportive housing  
11          for the elderly under section 202 of the Hous-  
12          ing Act of 1959 (12 U.S.C. 1701q), including  
13          assistance under such section as was in effect  
14          before the enactment of the Cranston-Gonzales  
15          National Affordable Housing Act.

16          (H) The program for rural rental housing  
17          under section 515 of the Housing Act of 1949  
18          (42 U.S.C. 1485).

19          (I) Any program providing project-based  
20          assistance that is attached to the structure.

21          (J) Any other program under which the  
22          Secretary provides any rental assistance, mort-  
23          gage insurance, subsidy, or other financial as-  
24          sistance.

1           (2) LOW-INCOME; VERY LOW-INCOME.—The  
2       terms “low-income” and “very low-income”, with re-  
3       spect to a covered multifamily housing property,  
4       shall have the meanings provided under the laws and  
5       regulations governing the program under which the  
6       covered multifamily housing property is insured or  
7       assisted.

8           (3) PROJECT-BASED ASSISTANCE.—The term  
9       “project-based assistance” means—

10           (A) assistance provided under section 8(b)  
11       of the United States Housing Act of 1937 (42  
12       U.S.C. 1437f(b)), including the additional as-  
13       sistance program;

14           (B) assistance for housing constructed or  
15       substantially rehabilitated pursuant to assist-  
16       ance provided under section 8(b)(2) of such Act  
17       (as such section was in effect immediately be-  
18       fore October 1, 1983);

19           (C) rent supplement payments under sec-  
20       tion 101 of the Housing and Urban Develop-  
21       ment Act of 1965 (12 U.S.C. 1701s);

22           (D) additional assistance payments under  
23       section 236(f)(2) of the National Housing Act  
24       (12 U.S.C. 1715z–1(f)(2)) or a comparable

1 State program providing for interest reduction  
2 payments;

3 (E) payments made under section  
4 202(c)(2) of the Housing Act of 1959 (12  
5 U.S.C. 1701q(c)(2)); and

6 (F) payments made under any other Fed-  
7 eral program under which rental assistance is  
8 attached to the structure.

9 (4) RECEIVING PROPERTY.—The term “receiv-  
10 ing property” means, with respect to a transfer of  
11 project-based assistance, debt, and statutorily re-  
12 quired low-income and very low-income use restric-  
13 tions under this section, the covered multifamily  
14 housing property or properties to which the assist-  
15 ance, debt, and use restrictions are to be trans-  
16 ferred.

17 (5) SECRETARY.—The term “Secretary” means  
18 the Secretary of Housing and Urban Development.

19 (6) TRANSFERRING PROPERTY.—The term  
20 “transferring property” means, with respect to a  
21 transfer of project-based assistance, debt, and statu-  
22 torily required low-income and very low-income use  
23 restrictions under this section, the covered multi-  
24 family housing property or properties from which

1 the assistance, debt, and use restrictions are to be  
2 transferred.

3 **SEC. 202. BUILDING TRANSFERS: REQUIREMENTS FOR PUR-**  
4 **CHASERS OF FHA INSURED PROJECTS AND**  
5 **SECTION 8 PROJECTS.**

6 (a) REQUIREMENTS FOR POTENTIAL PUR-  
7 CHASERS.—Not later than 90 days after the date of the  
8 enactment of this Act, the Secretary of Housing and  
9 Urban Development shall issue a proposed rulemaking, in  
10 accordance with title 5, United States Code, that applies  
11 the participation and certification requirements for poten-  
12 tial purchasers required under section 219 of Division G  
13 of the Consolidated Appropriations Act, 2004 (Public Law  
14 108–199; 118 Stat. 397) to the sale or transfer of any  
15 multifamily housing having a mortgage that is insured or  
16 receives assistance under the National Housing Act or for  
17 which project-based assistance is provided under section  
18 8 of the United States Housing Act of 1937 (42 U.S.C.  
19 1437f).

20 (b) NOTICE TO LOCAL GOVERNMENT AND RESI-  
21 DENTS OF APPLICATION FOR TRANSFER.—The Secretary  
22 shall provide notice of an owner’s application for approval  
23 of any such transfer to the unit of local government where  
24 the property is located, and to the residents of the prop-

erty, using procedures required under the Housing and Community Development Amendments of 1978.

(c) GROUNDS FOR DISAPPROVAL.—Grounds for disapproval of a transfer may include—

(1) a purchaser's record of pervasive or continuing noncompliance under housing, health, and safety codes with respect to other housing owned or managed by the purchaser, regardless of location, except where the Secretary determines that such noncompliance did not result from the actions of the purchaser and would be satisfactorily remedied by a plan approved by the Secretary; and

(2) a risk of financial instability for the project under the terms of the acquisition, such as indicated by the application of conventional underwriting standards.

**SEC. 203. USE OF INTEREST REDUCTION PAYMENTS FOR REHABILITATION GRANTS.**

The Secretary of Housing and Urban Development may obligate any amounts recaptured from the termination of a contract for interest reduction payments under section 236 of the National Housing Act (12 U.S.C. 1715z-1), for the use under subsection (s) of such section, except that the Secretary shall take immediate action to issue appropriate guidelines to make such funds available

1 within 180 days after the date of the enactment of this  
2 Act, which shall include the availability of both loans and  
3 grants.

4 **SEC. 204. CLARIFICATION OF BUDGET-BASED RENT IN-**  
5 **CREASES FOR REHABILITATED PROJECTS.**

6 (a) APPROVAL OF RENT INCREASES.—

7 (1) APPROVAL.—At the request of an owner of  
8 a covered multifamily housing property (which term,  
9 for purposes of this section, shall have the same  
10 meaning given such term in section 201(c) of this  
11 Act) that meets the requirements of paragraph (2),  
12 the Secretary of Housing and Urban Development  
13 shall, prior to rehabilitation and subject to sub-  
14 section (b), adjust project rents on a budget-based  
15 basis to support the cost of the rehabilitation, any  
16 increased debt service, and other appropriate costs.

17 (2) REQUIREMENTS.—The requirements of this  
18 paragraph with respect to a covered multifamily  
19 housing property are that—

20 (A) the project is to undergo rehabilitation;  
21 and

22 (B) the owner or purchaser of the project  
23 executes a binding agreement to preserve the  
24 project as affordable housing at least until the  
25 later of the maturity date of the original mort-

1           gage for the project or the termination of an as-  
2           sistance contract on the property.

3           (b) CONDITIONS.—Rent adjustments pursuant to this  
4 section for a covered multifamily housing property shall  
5 be subject to the following conditions and requirements:

6           (1) EFFECTIVENESS.—Such rent adjustments  
7 shall not become effective until completion of the re-  
8 habilitation of the property.

9           (2) AMOUNT.—Such rent adjustments shall—

10           (A) be subject to adjustment by the Sec-  
11 retary based on differences between estimated  
12 and actual costs; and

13           (B) with respect to units that are assisted  
14 under section 8 of the United States Housing  
15 Act of 1937 (42 U.S.C. 1437) that are subject  
16 to a renewal contract under section 524(a) of  
17 the Multifamily Assisted Housing Reform and  
18 Affordability Act of 1997 (42 U.S.C. 1437f  
19 note), not exceed, after rehabilitation, the rent  
20 for comparable unassisted units in the area.

21           (3) TENANT NOTICE AND OPPORTUNITY TO  
22 COMMENT.—Tenants in the property shall be pro-  
23 vided notice and an opportunity to comment on such  
24 rent adjustments in accordance with rent increase  
25 procedures of the Department of Housing and



1 Urban Development issued pursuant to the authority  
 2 under section 202(b) of the Housing and Commu-  
 3 nity Development Amendments of 1978 (12 U.S.C.  
 4 1715z-1b(b)).

5 (4) PROVISION OF RENTAL ASSISTANCE.—Rent-  
 6 al assistance shall be provided for all affected eligi-  
 7 ble tenants of the property in the form of new  
 8 project-based assistance for previously unassisted  
 9 units and legally authorized contract rent increases  
 10 under existing project-based contracts.

11 (c) EFFECT ON OTHER TRANSACTIONS.—This sec-  
 12 tion shall not have any effect on transactions not meeting  
 13 the terms and conditions of this section.

14 **SEC. 205. INTEREST REDUCTION PAYMENTS FOR SECTION**  
 15 **236 PROJECTS EXPERIENCING A REDUCTION**  
 16 **OF UNITS.**

17 (a) IN GENERAL.—Section 236(e)(2) of the National  
 18 Housing Act (12 U.S.C. 1715z-1(e)(2)) is amended—

19 (1) by striking “under the terms” and inserting  
 20 “for the remaining term”; and

21 (2) by adding at the end the following new sen-  
 22 tence: “The Secretary may continue to provide the  
 23 interest reduction payments in their entirety, not-  
 24 withstanding a reduction of total units, if the project  
 25 owner is able to demonstrate that such an action will

1 contribute to the long-term physical or financial via-  
 2 bility of the property.”.

3 (b) APPLICABILITY.—The amendments made by sub-  
 4 section (a) shall apply to all interest reduction payments  
 5 made after October 1, 2006.

## 6 **TITLE III—PROTECTION OF** 7 **RESIDENTS**

### 8 **SEC. 301. TENANT PROTECTION VOUCHER TO REPLACE** 9 **LOST SUBSIDIZED UNITS ON 1-FOR-1 BASIS.**

10 Subject only to the availability of amounts provided  
 11 for such purpose in appropriation Acts, the Secretary of  
 12 Housing and Urban Development shall provide replace-  
 13 ment vouchers for rental assistance under section 8 of the  
 14 United States Housing Act of 1937 (42 U.S.C. 1437f) for  
 15 all dwelling units in projects that cease to be covered mul-  
 16 tifamily housing properties (as such term is defined in sec-  
 17 tion 201 of this Act) due to demolition, disposition, or con-  
 18 version.

### 19 **SEC. 302. MAINTENANCE OF HOUSING.**

20 Section 8(d) of the United States Housing Act of  
 21 1937 (42 U.S.C. 1437f(d)) is amended by adding at the  
 22 end the following new paragraphs:

23 “(7) ENFORCEMENT OF HOUSING STANDARDS RE-  
 24 LATED TO PHYSICAL CONDITION OF PROPERTY.—If the  
 25 Secretary determines, upon any inspection or management

1 review for any multifamily housing project covered by a  
2 housing assistance payments contract under this section,  
3 that there are serious violations of housing standards ap-  
4 plicable to such project that are not corrected after reason-  
5 able notice, or any other substantial or repeated violations  
6 of other program requirements, including residents right  
7 to organize, the Secretary may take one or more of the  
8 following actions:

9           “(A) Withhold all or part of the housing assist-  
10        ance payments due under the contract.

11           “(B) Withhold any rent increases otherwise  
12        due.

13           “(C) Assume possession and management of  
14        the project and take any actions necessary to correct  
15        the violations, including using such withheld pay-  
16        ments to effectuate repairs or to reimburse others  
17        who make repairs.

18           “(D) Use such withheld payments to pay for  
19        utilities and other services that are the responsibility  
20        of the owner under the lease or applicable law.

21        “(8) ESCROW OF TENANT RENTS.—If the Secretary  
22 determines that there are serious violations of housing  
23 standards applicable to any multifamily housing project  
24 covered by a housing assistance payments contract under  
25 this section or any other substantial or repeated violations

1 of other program requirements, any tenants in assisted  
2 units in the project may withhold the tenant contribution  
3 toward rent and pay such amount, when due, into an es-  
4 crow fund, or use such withheld payments to effectuate  
5 repairs, in accordance with procedures established by the  
6 Secretary. If a tenant withholds the tenant contribution  
7 toward rent in accordance with this paragraph, the Sec-  
8 retary shall withhold all or part of the housing assistance  
9 payments due under the contract until the violation is  
10 remedied. An owner of a project shall not evict tenants  
11 for nonpayment of rent for exercising rights under this  
12 paragraph.

13 “(9) PROTECTION OF TENANTS.—An owner of a  
14 multifamily housing project covered by a housing assist-  
15 ance payments contract under this subsection may not ter-  
16 minate the tenancy of any tenant because of the with-  
17 holding or abatement of assistance pursuant to this sub-  
18 section. During the period that assistance is abated pursu-  
19 ant to this subsection, the tenant may terminate the ten-  
20 ancy by notifying the owner.

21 “(10) INSPECTIONS UPON REQUEST OR PETITION.—  
22 In addition to periodic inspections by the Secretary, the  
23 Secretary shall conduct an inspection or management re-  
24 view of any multifamily housing project covered by a hous-  
25 ing assistance payments contract under this section when

1 requested by the local government in which the project is  
2 located or by a petition signed by not less than 25 percent  
3 of the tenants of the occupied units in the project.”.

4 **SEC. 303. RESIDENT ENFORCEMENT OF PUBLIC HOUSING**  
5 **AGENCY OR PROJECT OWNER AGREEMENTS**  
6 **WITH HUD.**

7 (a) IN GENERAL.—In each covered agreement de-  
8 scribed in subsection (c), any resident, or resident or ten-  
9 ant association, of an affected project shall be permitted  
10 to petition the Secretary of Housing and Urban Develop-  
11 ment requesting enforcement of alleged violations of the  
12 covered agreement.

13 (b) JUDICIAL RELIEF.—If the Secretary, or the des-  
14 ignee of the Secretary, fails to issue a determination re-  
15 garding an enforcement request within 90 days after re-  
16 ceipt of the petition, the resident, or resident or tenant  
17 association, may seek appropriate judicial relief in connec-  
18 tion with the alleged violation and enforcement of a cov-  
19 ered agreement in any forum of competent jurisdiction.  
20 In the case of any alleged violation that threaten the  
21 health or safety of tenants, the time period for making  
22 such a determination shall be no longer than 15 days.

23 (c) COVERED AGREEMENTS.—A covered agreement  
24 described in this subsection is any—

1           (1) contract between the Secretary and any  
2       public housing agency for housing assistance pay-  
3       ments under section 8 of the United States Housing  
4       Act of 1937 (42 U.S.C. 1437f);

5           (2) agreement under the Multifamily Assisted  
6       Housing Reform and Affordability Act of 1997 (42  
7       U.S.C. 1437f note) for—

8           (A) Mark-to-Market Restructuring Com-  
9       mitments or renewal of section 8 rental assist-  
10      ance for a project involving any action under  
11      section 517(b) of such Act; or

12          (B) Rehabilitation Escrow Deposit Agree-  
13      ments for Mark-to-Market; or

14          (3) contract for mortgage insurance executed by  
15      the Secretary and any owner or purchaser of a mul-  
16      tifamily housing project.

17      (d) REGULATIONS.—Within 180 days after the date  
18      of the enactment of this Act, the Secretary shall issue reg-  
19      ulations providing procedures for—

20          (1) receiving tenant petitions to enforce the  
21      terms of a covered agreement;

22          (2) evaluating alleged violations of a covered  
23      agreement; and

24          (3) providing notice to residents, and resident  
25      and tenant associations.

1 **SEC. 304. RESIDENT ACCESS TO BUILDING INFORMATION.**

2 (a) ACCESS TO INFORMATION.—Upon a written re-  
3 quest by a legitimate residents association established with  
4 respect to a multifamily housing property to which part  
5 245 of the regulations of the Secretary of Housing and  
6 Urban Development (24 C.F.R. Part 245), by or through  
7 its duly appointed designee or representative, the Sec-  
8 retary shall make available, for the property represented  
9 by the association—

10 (1) information identifying the legal entities  
11 that own and manage the property, including identi-  
12 fication of general partners and other principals, and  
13 their other properties assisted by the Department of  
14 Housing and Urban Development, including previous  
15 participation certifications (with Social Security  
16 numbers redacted);

17 (2) an annual operating statement of profit and  
18 loss, and project budgets submitted to the Depart-  
19 ment of Housing and Urban Development;

20 (3) subsidy contracts and regulatory agree-  
21 ments, use agreements, or other contracts referred  
22 to in section 303(c) of this Act between owners and  
23 the Department of Housing and Urban Develop-  
24 ment, including correspondence between owners and  
25 the Department;

1           (4) management reviews, capital needs assess-  
 2           ments, and physical inspection reports conducted of  
 3           entities identified in paragraph (1) by the Depart-  
 4           ment or a contractor of the Department; and

5           (5) an annual statement, prepared by the De-  
 6           partment's contract administrator for the subject  
 7           property, of the balances of, and expenditures from,  
 8           any replacement reserves and other escrow funds for  
 9           the property.

10          (b) PROTECTION OF PERSONAL INFORMATION.—  
 11          Subsection (a) shall not be construed to require disclosure  
 12          of Social Security numbers, personal tax returns, or any  
 13          other personal financial information of or concerning indi-  
 14          viduals who have an interest in the ownership or manage-  
 15          ment entities referred to in subsection (a).

16       **TITLE IV—PRESERVATION OF**  
 17       **TROUBLED PROJECTS FAC-**  
 18       **ING FORECLOSURE**

19       **SEC. 401. MAINTAINING AFFORDABILITY THROUGH**  
 20       **ESCROWING OF RENTAL ASSISTANCE.**

21          In the case of any transfer of a distressed multifamily  
 22          property that does not comply with housing quality stand-  
 23          ards applicable to the property, the Secretary of Housing  
 24          and Urban Development may not recapture any rental as-  
 25          sistance that is attached to any dwelling units in the prop-



erty and provided under a contract for the property under section 8 of the United States Housing Act of 1937 or under any other program administered by the Secretary, but shall hold any such assistance in escrow for the property during the period of noncompliance and, upon determining that the property complies with such standards make such assistance available for the property.

**SEC. 402. MULTIFAMILY HOUSING MORTGAGE FORECLOSURE.**

The Multifamily Mortgage Foreclosure Act of 1981 is amended—

(1) in section 362 (12 U.S.C. 3701)—

(A) in paragraph (5), by striking “and” at the end;

(B) in paragraph (6), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(7) mortgages transferred by the Secretary to State and local governments should be foreclosed in the same manner as mortgages held by the Secretary.”;

(2) in section 363 (12 U.S.C. 3702)—

(A) in paragraph (9), by striking “and” at the end;

1 (B) in paragraph (10), by striking the pe-  
2 riod at the end and inserting “; and”; and

3 (C) by adding at the end the following new  
4 paragraph:

5 “(11) ‘State or local government transferee’  
6 means any State or unit of general local govern-  
7 ment, any public housing authority, or any State or  
8 local housing finance agency that has acquired mort-  
9 gages pursuant to section 203 of the Housing and  
10 Community Development Amendments of 1978 (12  
11 U.S.C. 1701z–11), section 204 of the Departments  
12 of Veterans Affairs and Housing and Urban Devel-  
13 opment, and Independent Agencies Appropriations  
14 Act, 1997 (12 U.S.C. 1715z–11a), or any other pro-  
15 vision of law, that were previously held by the Sec-  
16 retary.”;

17 (3) in section 364 (12 U.S.C. 3703)—

18 (A) by inserting “, or any State or local  
19 government transferee,” after “Secretary” the  
20 first and fourth places such term appears; and

21 (B) by inserting “, or the State or local  
22 government transferee,” after “Secretary” the  
23 second, third, and fifth places such term ap-  
24 pears;

25 (4) in section 365 (12 U.S.C. 3704)—

1           (A) by inserting “, or any State or local  
2           government transferee,” after “Secretary” the  
3           first place such term appears;

4           (B) by inserting “, or the State or local  
5           government transferee,” after “Secretary” each  
6           other place such term appears; and

7           (C) by striking the last 3 sentences and in-  
8           serting the following: “The entity designating  
9           the foreclosure commissioner, whether the Sec-  
10          retary or any State or local government trans-  
11          feree, shall be a guarantor of payment of any  
12          judgment against the foreclosure commissioner  
13          for damages based upon the commissioner’s  
14          failure properly to perform the commissioner’s  
15          duties. As between the entity designating the  
16          foreclosure commissioner, whether the Secretary  
17          or any State or local government transferee,  
18          and the mortgagor, the entity designating the  
19          foreclosure commissioner shall bear the risk of  
20          any financial default by the foreclosure commis-  
21          sioner. In the event that the Secretary or any  
22          State or local government transferee makes any  
23          payment pursuant to the preceding two sen-  
24          tences, the Secretary or any State or local gov-

ernment transferee shall be fully subrogated to the rights satisfied by such payment.”;

(5) in section 366 (12 U.S.C. 3705)—

(A) by inserting “, or any State or local government transferee,” after “Secretary” the first, third, fourth, and fifth place such term appears; and

(B) by inserting “, or the State or local government transferee,” after “Secretary” the second and sixth places such term appears;

(6) in section 367 (12 U.S.C. 3706)—

(A) in subsection (a)—

(i) in paragraph (1), by inserting “or the State or local government transferee,” after “Secretary,”; and

(ii) in paragraph (8), by inserting “, or the State or local government transferee” after “Secretary”;

(B) in subsection (b)—

(i) by inserting “, or any State or local government transferee,” after “Secretary” the first and second places such term appears; and

(ii) by inserting “, or the State or local government transferee,” after “Sec-

1                   retary” the third place such term appears;

2                   and

3                   (C) by adding at the end the following new

4                   subsection:

5           “(c) In any case in which a State or local government  
6 transferee is the purchaser of a multifamily project, the  
7 State or local government transferee shall manage and dis-  
8 pose of such project to benefit those originally intended  
9 to be assisted under the prior program unless continued  
10 operation and disposition of the property under such pro-  
11 gram is not feasible based on consideration of the costs  
12 of rehabilitating and operating the property after consid-  
13 ering all available Federal, State, and local resources, in-  
14 cluding rent adjustments under section 524 of the Multi-  
15 family Assisted Housing Reform and Affordability Act of  
16 1997 (42 U.S.C. 1437f note).”.

17           (7) in section 368 (12 U.S.C. 3707)—

18                   (A) by inserting “, or any State or local  
19 government transferee,” after “Secretary” the  
20 first and third places such term appears; and

21                   (B) by inserting “, or the State of local  
22 government transferee,” after “Secretary” the  
23 second place such term appears;

24           (8) in section 369A (12 U.S.C. 3709)—

1 (A) by inserting “, or any State or local  
2 government transferee,” after “Secretary” the  
3 second place such term appears; and

4 (B) by inserting ‘, or the State or local  
5 government transferee,’ after ‘Secretary’ the  
6 first, third, and fourth places such term ap-  
7 pears;

8 (9) in section 369B (12 U.S.C. 3710)—

9 (A) by inserting “, or the State of local  
10 government transferee,” after “Secretary” the  
11 first and second places such term appears; and

12 (B) by inserting “, or any State or local  
13 government transferee,” after “Secretary” each  
14 other place such term appears;

15 (10) in section 369E (12 U.S.C. 3713), by in-  
16 serting “, or any State or local government trans-  
17 feree,” after “Secretary” each place such term ap-  
18 pears; and

19 (11) in section 369F(a)(1) (12 U.S.C.  
20 3714(a)(1)), by inserting “, or any State or local  
21 government transferee,” before the semicolon at the  
22 end.

1 **SEC. 403. BUILDING ACQUISITION: VALUATION OF PHYS-**  
2 **ICALLY DISTRESSED PROPERTIES SOLD BY**  
3 **HUD.**

4 (a) IN GENERAL.—Notwithstanding title II of the  
5 Deficit Reduction Act of 2005 (12 U.S.C. 1701z–11 note)  
6 or any other provision of law, in determining the market  
7 value of any multifamily real property or multifamily loan  
8 for any noncompetitive sale to a State or local government,  
9 the Secretary of Housing and Urban Development shall  
10 consider, but not be limited to, industry standard ap-  
11 praisal practices, including the cost of repairs needed to  
12 bring the property into such condition as to satisfy min-  
13 imum State and local code standards and the cost of main-  
14 taining the affordability requirements imposed by the Sec-  
15 retary on the multifamily real property or multifamily  
16 loan.

17 (b) DEFINITIONS.—For purposes of this section, the  
18 terms “affordability requirements”, “multifamily loan”,  
19 and “multifamily real property” have the same meaning  
20 given such terms in section 2001 of the Deficit Reduction  
21 Act of 2005 (12 U.S.C. 1701z–11 note).

22 **SEC. 404. INVESTMENT THROUGH UP-FRONT GRANTS FROM**  
23 **GENERAL INSURANCE FUND.**

24 (a) 1978 ACT.—Paragraph (4) of section 203(f) of  
25 the Housing and Community Development Amendments

1 of 1978 (12 U.S.C. 1701z-11(f)(4)) is amended by strik-  
2 ing the last sentence.

3 (b) CLARIFICATION OF AUTHORIZED ASSISTANCE.—

4 In implementing the provisions amended by subsection (b)  
5 of this section, the Secretary of Housing and Urban Devel-  
6 opment may utilize both up-front grants and project-based  
7 rental assistance under section 8 of the United States  
8 Housing Act of 1937 (42 U.S.C. 1437f) as necessary to  
9 preserve the affordability of a multifamily housing project  
10 to low- and very low-income families.

11 **SEC. 405. MAINTAINING PROJECT-BASED ASSISTANCE FOR**  
12 **PROJECTS DISPOSED OF BY HUD.**

13 (a) IN GENERAL.—In managing and disposing of any  
14 multifamily property that is owned by, or has a mortgage  
15 held by, the Secretary of Housing and Urban Develop-  
16 ment, the Secretary shall maintain any contracts for rent-  
17 al assistance payments under section 8 of the United  
18 States Housing Act of 1937 (42 U.S.C. 1437f) and other  
19 programs that are attached to any dwelling units in the  
20 property.

21 (b) INFEASIBILITY OF CONTINUED ASSISTANCE.—To  
22 the extent the Secretary determines, in consultation with  
23 the tenants and the local government, that such a multi-  
24 family property owned or held by the Secretary is not fea-  
25 sible for continued rental assistance payments under such



1 section 8 or other programs, based on consideration of (1)  
2 the costs of rehabilitating and operating the property and  
3 all available Federal, State, and local resources, including  
4 rent adjustments under section 524 of the Multifamily As-  
5 sisted Housing Reform and Affordability Act of 1997 (42  
6 U.S.C. 1437f note), and environmental conditions that  
7 cannot be remedied in a cost-effective fashion, the Sec-  
8 retary may, in consultation with the tenants of such prop-  
9 erty, contract for project-based rental assistance payments  
10 with an owner or owners of other existing housing prop-  
11 erties, or provide other rental assistance.

12 (c) FORECLOSURE.—For all properties with project-  
13 based section 8 assistance, regardless of the type of under-  
14 lying financing, the Secretary shall also take appropriate  
15 actions to ensure that project-based contracts remain in  
16 effect prior to foreclosure, subject to the exercise of con-  
17 tractual remedies to assist relocation of tenants for immi-  
18 nent major threats to health and safety, after written no-  
19 tice to and informed consent of the affected tenants and  
20 use of other available remedies, such as partial abatements  
21 or receivership.

22 (d) APPLICABILITY OF MAHRA.—After disposition  
23 of any multifamily property described under this section,  
24 the contract and allowable rent levels on such properties  
25 shall be subject to section 524 of the Multifamily Assisted

1 Housing Reform and Affordability Act of 1997 (42 U.S.C.  
2 1437f note).

3 **SEC. 406. CORRECTING HARM CAUSED BY LATE SUBSIDY**  
4 **PAYMENTS.**

5 Section 8 of the United States Housing Act of 1937  
6 (42 U.S.C. 1437f), as amended by the preceding provi-  
7 sions of this Act, is further amended by adding at the end  
8 the following new subsection:”.

9 “(gg) LATE PAYMENTS.—

10 “(1) IN GENERAL.—The Secretary shall make  
11 payments of project-based rental assistance provided  
12 under this section for each month on or before the  
13 due date under paragraph (2) for the payment.

14 “(2) DUE DATE.—The due date under this  
15 paragraph for a monthly payment is the first busi-  
16 ness day of the month.

17 “(3) NOTIFICATION OF LATE PAYMENT.—The  
18 Secretary shall notify a project owner at least 10  
19 days before the due date for a housing assistance  
20 payment if such payment will be late and shall in-  
21 form the project owner of the approximate date the  
22 payment will be made.

23 “(4) USE OF RESERVES.—If a housing assist-  
24 ance payment for a project has not been received be-  
25 fore the expiration of the 10-day period beginning

1       upon the due date for such payment, the project  
2       owner shall, after the expiration of such period, be  
3       entitled to obtain funds from a project replacement  
4       reserve, residual receipts reserve, or other project re-  
5       serve in order to pay operating and debt service  
6       costs for the project. Upon receipt of the monthly  
7       housing assistance payment from the Secretary, the  
8       project owner shall promptly replace or replenish  
9       any such funds advanced pursuant to the preceding  
10      sentence.

11           “(5) INTEREST PAYMENT.—If a monthly hous-  
12      ing assistance payment is not made before the expi-  
13      ration of the 30-day period beginning upon the due  
14      date for such payment, the Secretary shall pay to  
15      the owner simple interest on the amount of such  
16      monthly payment, from the due date until the date  
17      of payment, at a rate determined by the Secretary  
18      of Treasury in accordance with section 12 of the  
19      Contract Disputes Act of 1978 (41 U.S.C. 611). In-  
20      terest payments under this paragraph shall be made  
21      from amounts made available for management and  
22      administration of the Department of Housing and  
23      Urban Development.”.

1 **TITLE V—INCENTIVES UNDER**  
 2 **MAHRA FOR OWNERS TO**  
 3 **MAINTAIN HOUSING AFFORD-**  
 4 **ABILITY**

5 **SEC. 501. EXTENSION OF MARK-TO-MARKET PROGRAM.**

6 Section 579 of the Multifamily Assisted Housing Re-  
 7 form and Affordability Act of 1997 (42 U.S.C. 1437f  
 8 note) is amended by striking “October 1, 2011” each place  
 9 such term appears and inserting “October 1, 2015”.

10 **SEC. 502. MAINTAINING AFFORDABILITY IN PRESERVATION**  
 11 **PROJECT TRANSACTIONS.**

12 (a) RENEWAL UNDER ALTERNATIVE AUTHORI-  
 13 TIES.—Paragraph (1) of section 524(e) of the Multifamily  
 14 Assisted Housing Reform and Affordability Act of 1997  
 15 (42 U.S.C. 1437f note) is amended by adding at the end  
 16 the following new sentences: “At the request of the owner  
 17 of the project, in order to facilitate a rehabilitation plan  
 18 approved by the Secretary as being necessary to ensure  
 19 the sustainability of a project, a contract eligible for re-  
 20 newal pursuant to this paragraph may instead be renewed  
 21 pursuant to any provision of subsection (a) or (b) of this  
 22 section if the contract is otherwise eligible for renewal pur-  
 23 suant to such provision. In the case of a renewal pursuant  
 24 to subsection (a) or (b), the rent and rent adjustment  
 25 standards applicable to a renewal pursuant to those sub-

1 sections shall apply, but tenant occupancy and afford-  
2 ability restrictions in the plan of action shall continue to  
3 apply to the project for the duration of those restric-  
4 tions.”.

5 (b) EXTENSION OF AFFORDABILITY PERIOD FOR  
6 ELIHPA PROJECTS.—Section 524(e) of the Multifamily  
7 Assisted Housing Reform and Affordability Act of 1997  
8 (42 U.S.C. 1437f note) is amended by adding at the end  
9 the following new paragraph:

10 “(4) HYBRID CONTRACT.—To facilitate the  
11 sale, transfer, or rehabilitation of a project that is  
12 subject to a plan of action under the Emergency  
13 Low Income Housing Preservation Act of 1987 (12  
14 U.S.C. 1715l note) to an owner who agrees to bind-  
15 ing low-income affordability restrictions for at least  
16 30 years beyond the term of the plan of action and  
17 a rehabilitation plan approved by the Secretary as  
18 being necessary to ensure the sustainability of the  
19 project, a contract for such a project shall, at the re-  
20 quest of the owner of the project, be renewed under  
21 this paragraph for a term of not less than 30 years.  
22 The contract shall provide that the terms of the plan  
23 of action shall apply for the duration of the original  
24 plan of action, and that at the expiration of the plan  
25 of action the rents shall be established at rent levels

1 equal to comparable market rents for the market  
 2 area. After expiration of the plan of action, rent ad-  
 3 justments shall be determined in accordance with  
 4 the provisions of subsection (c) that are applicable to  
 5 contracts renewed pursuant to subsection (a). Any  
 6 existing contract entered into pursuant to paragraph  
 7 (1) shall be terminated at the request of the owner  
 8 of the project, and replaced by a contract under this  
 9 paragraph.”.

10 **SEC. 503. ENCOURAGING CONTINUED PARTICIPATION IN**  
 11 **ASSISTED HOUSING PROGRAMS.**

12 (a) ELIMINATION OF DISCRIMINATORY RENEWAL  
 13 TERMS.—Paragraph (3) of section 524(b) of the Multi-  
 14 family Assisted Housing Reform and Affordability Act of  
 15 1997 (42 U.S.C. 1437f note) is amended—

16 (1) in the matter preceding subparagraph (A),  
 17 by striking “the lesser of” and inserting “as fol-  
 18 lows”; and

19 (2) by striking subparagraphs (A), (B), and (C)  
 20 and inserting the following:

21 “(A) PREVIOUSLY RENEWED PROJECTS.—

22 In the case of a project with a contract pre-  
 23 viously renewed under this paragraph, for the  
 24 first renewal occurring after the date of the en-  
 25 actment of the Housing Preservation and Ten-

1 ant Protection Act of 2010, at a rent level de-  
 2 termined in accordance paragraph (1)(B) of  
 3 this subsection.

4 “(B) PROJECTS NOT PREVIOUSLY RE-  
 5 NEWED.—In the case of a project with a con-  
 6 tract not previously renewed under this para-  
 7 graph, at a rent level determined in accordance  
 8 with paragraph (1) of this subsection.”.

9 (b) SUBSEQUENT RENEWALS AND RENT ADJUST-  
 10 MENTS.—Paragraph (1) of section 524(c) of the Multi-  
 11 family Assisted Housing Reform and Affordability Act of  
 12 1997 (42 U.S.C. 1437f note) is amended in the first sen-  
 13 tence by striking “(b)(1)” and inserting “(b)(1), (b)(3)”.

14 **SEC. 504. PREPAYMENT OF FHA MORTGAGES ON MULTI-**  
 15 **FAMILY HOUSING.**

16 (a) CONDITIONS FOR PREPAYMENT.—Section 250 of  
 17 the National Housing Act (12 U.S.C. 1715z–15) is  
 18 amended—

19 (1) in subsection (a)—

20 (A) by striking paragraph (1) and insert-  
 21 ing the following new paragraph:

22 “(1) the Secretary has determined that—

23 “(A) such project is no longer meeting a  
 24 need for rental housing for lower income fami-  
 25 lies in the area, as evidenced by a persistent

1 lack of demand for the units under the rent  
2 schedule approved by the Secretary; or

3 “(B) the prepayment is part of a trans-  
4 action to preserve and improve the project as  
5 affordable housing, pursuant to the guidance in  
6 effect that implements section 236(e)(2) of this  
7 Act (12 U.S.C. 1715z–1(e)(2)) or pursuant to  
8 additional administrative guidance, ensuring  
9 that—

10 “(i) the proceeds of any refinancing  
11 will be used for rehabilitation of the  
12 project and related costs or for affordable  
13 housing and related social services under a  
14 plan approved by the Secretary;

15 “(ii) tenants will not be displaced  
16 from the project;

17 “(iii) rent burdens for unassisted ten-  
18 ants as a result of the transaction will not  
19 be increased by more than 10 percent an-  
20 nually or 20 percent in total, unless addi-  
21 tional project-based assistance is provided;  
22 and

23 “(iv) binding commitments, which  
24 shall apply to current and subsequent own-  
25 ers, are made to ensure that the project



1 will operate in accordance with all cur-  
2 rently applicable low-income affordability  
3 restrictions for a period of not less than  
4 the original mortgage term plus an addi-  
5 tional 20 years, including a duty to main-  
6 tain a substantially similar occupancy pro-  
7 file for the project of low-, very low-, and  
8 extremely low-income tenants, to renew  
9 any expiring rental assistance contracts for  
10 the project, and accept additional rental  
11 assistance for the project.”;

12 (B) in paragraph (2)—

13 (i) in subparagraph (A), by inserting  
14 before the semicolon at the end the fol-  
15 lowing: “which shall include reasonable ac-  
16 cess to all information relevant to the re-  
17 quest, including the anticipated sources  
18 and uses of proceeds, any additional fi-  
19 nancing, subsidies, and rental assistance,  
20 and any proposed rehabilitation plan, af-  
21 fordable housing and services plan, or use  
22 agreement”; and

23 (ii) in subparagraph (C), by inserting  
24 before the semicolon the following: “in

1 making the determination required by  
2 paragraph (1)”;

3 (C) in paragraph (3), by striking the pe-  
4 riod at the end and inserting “; and”; and

5 (D) by adding at the end the following new  
6 paragraph:

7 “(4) the Secretary has ensured that such pre-  
8 payment or termination involves extension of any  
9 low-income affordability restrictions (as such term is  
10 defined in section 229 of the Low-Income Housing  
11 Preservation and Resident Homeownership Act of  
12 1990 (12 U.S.C. 4119) for the project for a period  
13 of not less than 30 years.”.

14 (b) USE OF PROCEEDS OF PRESERVATION TRANS-  
15 ACTIONS BY NONPROFIT OWNERS OF MULTIFAMILY  
16 PROJECTS; SECTION 236 TRANSACTIONS; CLARIFICATION  
17 OF EFFECT.—Section 250 of the National Housing Act  
18 (12 U.S.C. 1715z–15) is amended by adding at the end  
19 the following new subsections:

20 “(d) USE OF PROCEEDS FROM PRESERVATION  
21 TRANSACTION.—Notwithstanding any other provision of  
22 law, in connection with a preservation transaction, the pre-  
23 payment of a mortgage on a multifamily rental housing  
24 project or termination of an insurance contract pursuant  
25 to section 229, or the sale or refinancing of a multifamily

1 rental housing project for which approval of the Secretary  
2 is required, the Secretary may not, in any manner that  
3 is not equally applicable to a for-profit owner of such a  
4 project—

5           “(1) impose on any owner of such a project  
6           that is a nonprofit organization or controlled by a  
7           nonprofit organization any limitation on the right of  
8           such owner to use the proceeds of such preservation  
9           transaction for the affordable housing mission (in-  
10          cluding tenant and supportive services) of such orga-  
11          nization, except that any increase in the project-  
12          based rental assistance shall be used solely to cover  
13          the cost of actual debt service, customary operating  
14          costs, and project reserve requirements, and for any  
15          rehabilitation of the project and reasonably related  
16          costs, and not for cash distributions or proceeds  
17          made to any project owner or purchaser; or

18           “(2) restrict the right of any owner of such a  
19          project that is a nonprofit organization or controlled  
20          by a nonprofit organization to do business, in con-  
21          nection with any affiliate or entity in which it has  
22          a financial interest.

23           “(e) SECTION 236 DECOUPLING REFINANCING  
24          TRANSACTIONS.—In the case of a decoupling refinancing  
25          transaction under section 236, the Secretary may not

1 enter into any agreement that establishes an escrow for  
2 the payment of future section 8 rent increases from sales  
3 proceeds funded by low-income housing tax credit equity  
4 and any such agreement already entered into shall be con-  
5 sidered unenforceable, shall be rescinded, and may be re-  
6 issued without the void condition.

7 “(f) APPLICABILITY.—Notwithstanding any existing  
8 administrative directive of the Secretary to the contrary,  
9 except as specifically authorized in this section, this sec-  
10 tion shall apply to the prepayment of any multifamily  
11 mortgage on any property insured or held by the Secretary  
12 under this Act for which the approval of the Secretary  
13 is required for prepayment of the mortgage.”.

14 **SEC. 505. PERIOD OF ELIGIBILITY FOR NONPROFIT DEBT**  
15 **RELIEF.**

16 Section 517(a)(5) of the Multifamily Assisted Hous-  
17 ing Reform and Affordability Act of 1997 (42 U.S.C.  
18 1437f note) is amended by adding at the end the following  
19 new sentences: “If such purchaser acquires such project  
20 subsequent to the date of recordation of the affordability  
21 agreement described in section 514(e)(6), (A) the pur-  
22 chaser must acquire the project on or before the later of  
23 (i) seven years after the date of recordation of the afford-  
24 ability agreement and (ii) two years after the date of en-  
25 actment of this sentence; and (B) the Secretary must have

1 received, and determined acceptable, the purchaser's ap-  
 2 plication for modification, assignment, or forgiveness prior  
 3 to the purchaser's acquisition of the project. In the event  
 4 any low-income housing tax credits, State or local funds,  
 5 tax-exemption or other affordable housing resources are  
 6 being utilized by the purchaser in connection with the  
 7 transfer of the property, the Secretary shall not require  
 8 any repayment in connection with the assignment or for-  
 9 giveness of the mortgages to the purchaser.”.

10 **SEC. 506. ACQUISITION OF RESTRUCTURED PROJECTS BY**  
 11 **NONPROFIT ORGANIZATIONS.**

12 Paragraph (5) of section 517(a) of the Multifamily  
 13 Assisted Housing Reform and Affordability Act of 1997  
 14 (42 U.S.C. 1437 note) is amended by inserting “, or the  
 15 sole general partner of the limited partnership owning the  
 16 project,” after “if the project”.

17 **SEC. 507. RENT ADJUSTMENTS UPON SUBSEQUENT RENEW-**  
 18 **ALS OF SECTION 8 CONTRACTS.**

19 Section 524(c) of the Multifamily Assisted Housing  
 20 Reform and Affordability Act of 1997 (42 U.S.C. 1437f  
 21 note) is amended by adding at the end the following new  
 22 paragraph:

23 “(3) SUBSEQUENT RENEWALS.—At the request  
 24 of the owner of the project, a contract initially re-  
 25 newed pursuant to this section may subsequently be

1 renewed under any renewal authority in this section  
2 for which it is eligible. The subsequent renewal of a  
3 contract initially renewed under subsection (b)(1)  
4 shall be at rents established in accordance with  
5 paragraph (1) of this subsection. A project whose  
6 contract is initially renewed under this section shall  
7 not be considered an eligible multifamily housing  
8 project as defined in section 512(2) unless (A) the  
9 owner of the project and the Secretary consent to  
10 the project's designation as an eligible multifamily  
11 housing project, and (B) the project meets the re-  
12 quirements of subparagraphs (A) and (C) of such  
13 section 512(2).”.

14 **SEC. 508. BUDGET-BASED RENT ADJUSTMENTS.**

15 (a) METHODS FOR ANNUAL RENT ADJUSTMENTS.—  
16 Section 514(g) of the Multifamily Assisted Housing Re-  
17 form and Affordability Act of 1997 (42 U.S.C. 1437f  
18 note) is amended by adding at the end the following new  
19 paragraph:

20 “(4) ANNUAL RENT ADJUSTMENTS.—The Sec-  
21 retary shall annually adjust the rents initially estab-  
22 lished pursuant to this section using an operating  
23 cost adjustment factor established by the Secretary  
24 (which shall not result in a negative adjustment) or,

1       upon the request of the project owner, on a budget  
2       basis.”

3       (b) MEETING REHABILITATION NEEDS OF PRE-  
4       VIOUSLY RESTRUCTURED PROJECTS.—Section 517(c) of  
5       the Multifamily Assisted Housing Reform and Afford-  
6       ability Act of 1997 (42 U.S.C. 1437f note) is amended  
7       by adding at the end the following new paragraph:

8               “(3) REHABILITATION NEEDS OF RESTRUC-  
9       TURED PROJECTS.—

10               “(A) REHABILITATION ASSISTANCE.—Not-  
11       withstanding any other provision of this title, at  
12       the request of a project owner, the Secretary  
13       shall, pursuant to a revised evaluation of the  
14       physical condition of the project approved by  
15       the Secretary, provide rehabilitation assistance  
16       from the funding sources specified in the first  
17       sentence of paragraph (1)(A) for any project  
18       for which the Secretary and the project owner  
19       executed a mortgage restructuring and rental  
20       assistance sufficiency plan prior to October 1,  
21       2001, pursuant to which mortgage debt on the  
22       project was restructured.

23               “(B) FUNDING THROUGH DEBT RESTRUC-  
24       TURING.—The Secretary may, in connection  
25       with the transfer of a project to a qualified

1 preservation owner, modify or waive any of the  
2 requirements or conditions on debt restruc-  
3 turing contained in this title in order to provide  
4 a simplified debt restructuring for funding the  
5 rehabilitation of previously restructured projects  
6 under this title. The Secretary may make a  
7 non-default partial or full payment of claim  
8 under a mortgage insurance contract pursuant  
9 to section 541(b) of the National Housing Act  
10 (12 U.S.C. 1735f–19(b)), notwithstanding the  
11 limitation in section 541(b) to its one-time use.  
12 The Secretary may also modify or waive any re-  
13 quirement or condition in such section 541(b)  
14 that the Secretary considers inconsistent with  
15 the simplified debt restructuring authorized by  
16 this paragraph.

17 “(C) CONTRIBUTION.—The project owner  
18 receiving rehabilitation assistance under this  
19 paragraph shall not be required to make the  
20 contribution specified in paragraph (1)(B) or  
21 (2)(C), except to the extent the Secretary in-  
22 creases project rents to provide for a return of  
23 the owner’s contribution over such period as the  
24 Secretary shall determine.”.



1 **SEC. 509. INDEPENDENT APPRAISAL REQUIREMENT IN**  
2 **CASES OF DIVERGENT RENT STUDIES.**

3 Section 524(a)(5) of the Multifamily Assisted Hous-  
4 ing Reform and Affordability Act of 1997 (42 U.S.C.  
5 1437f note) is amended by adding at the end the following  
6 new sentence: “In connection with a contract renewal  
7 under this section or section 515, if the comparable mar-  
8 ket rent determination made by the Secretary and the  
9 owner’s appraiser differ by 15 percent or more, the owner  
10 may request a third appraiser, jointly selected and com-  
11 pensated by the Secretary and the owner, to make a com-  
12 parable market rent determination that shall be binding  
13 on both parties.”.

14 **SEC. 510. EXTENSION OF HOUSING ASSISTANCE PAYMENT**  
15 **CONTRACT.**

16 (a) IN GENERAL.—Section 524(a) of the Multifamily  
17 Assisted Housing Reform and Affordability Act of 1997  
18 (42 U.S.C. 1437f note) is amended by adding at the end  
19 the following new paragraph:

20 “(6) EXTENSION OF CONTRACT TERM.—In con-  
21 nection with the refinancing or sale of a project cov-  
22 ered by a contract renewed under this subsection,  
23 the Secretary shall, at the request of the owner,  
24 amend the contract to extend the term to 30 years  
25 or such shorter term as the owner may request.  
26 Such an extension shall be subject to the availability

1 of sufficient amounts provided in appropriation  
2 Acts.”.

3 (b) EXCEPTION RENT PROJECTS.—Section 524(b) of  
4 the Multifamily Assisted Housing Reform and Afford-  
5 ability Act of 1997 (42 U.S.C. 1437f note) is amended  
6 by adding at the end the following new paragraph:

7 “(4) EXTENSION OF CONTRACT TERM.—In con-  
8 nection with the refinancing or sale of a project cov-  
9 ered by a contract renewed under this subsection,  
10 the Secretary shall, at the request of the owner,  
11 amend the contract to extend the term to 30 years  
12 or such shorter term as the owner may request.  
13 Such an extension shall be subject to the availability  
14 of sufficient amounts provided in appropriation  
15 Acts”.

16 **SEC. 511. OTHERWISE ELIGIBLE PROJECTS.**

17 Section 514 of the Multifamily Assisted Housing Re-  
18 form and Affordability Act of 1997 (42 U.S.C. 1437f  
19 note) is amended by adding at the end the following new  
20 subsection:

21 “(i) OTHER ELIGIBLE PROJECTS.—

22 “(1) IN GENERAL.—Notwithstanding any other  
23 provision of this subtitle, a project that meets the re-  
24 quirements of subparagraphs (B) and (C) of section  
25 512(2) but does not meet the requirements of sub-

1 paragraph (A) of section 512(2), may be treated as  
2 an eligible multifamily housing project on an excep-  
3 tion basis if the Secretary determines, subject to  
4 paragraph (2), that such treatment is necessary to  
5 preserve the project in the most cost-effective man-  
6 ner in relation to other alternative preservation op-  
7 tions.

8 “(2) OWNER REQUEST.—

9 “(A) REQUEST REQUIRED.—The Secretary  
10 shall not treat an otherwise eligible project de-  
11 scribed under paragraph (1) as an eligible mul-  
12 tifamily housing project unless the owner of the  
13 project requests such treatment.

14 “(B) NO ADVERSE TREATMENT IF NO RE-  
15 QUEST MADE.—If the owner of a project does  
16 not make a request under subparagraph (A),  
17 the Secretary shall not withhold from such  
18 project any other available preservation option.

19 “(3) CANCELLATION.—

20 “(A) TIMING.—At any time prior to the  
21 completion of a mortgage restructuring under  
22 this subtitle, the owner of a project may—

23 “(i) withdraw any request made under  
24 paragraph (2)(A); and

1 “(ii) pursue any other option with re-  
2 spect to the renewal of such owner’s sec-  
3 tion 8 contract pursuant to any applicable  
4 statute or regulation.

5 “(B) DOCUMENTATION.—If an owner of a  
6 project withdraws such owner’s request and  
7 pursues other renewal options under this para-  
8 graph, such owner shall be entitled to submit  
9 documentation or other information to replace  
10 the documentation or other information used  
11 during processing for mortgage restructuring  
12 under this subtitle.

13 “(4) LIMITATION.—The Secretary may exercise  
14 the authority to treat projects as eligible multifamily  
15 housing projects pursuant to this subsection only to  
16 the extent that the number of units in such projects  
17 do not exceed 10 percent of all units for which mort-  
18 gage restructuring pursuant to section 517 is com-  
19 pleted.”.

20 **SEC. 512. EXCEPTION RENTS.**

21 In the matter preceding clause (i) of section  
22 514(g)(2)(A) of the Multifamily Assisted Housing Reform  
23 and Affordability Act of 1997 (42 U.S.C. 1437f note) is  
24 amended—

1           (1) by inserting “disaster-damaged eligible  
2       projects and” after “waive this limit for”; and

3           (2) by striking “five percent of all units” and  
4       inserting “9 percent of all units”.

5   **SEC. 513. DISASTER-DAMAGED ELIGIBLE PROJECTS.**

6       (a)   MARKET   RENT   DETERMINATION.—Section  
7   514(g)(1)(B) of the Multifamily Assisted Housing Reform  
8   and Affordability Act of 1997 (42 U.S.C. 1437f note) is  
9   amended by striking “determined, are equal” and insert-  
10   ing the following: “determined—

11                   “(i) with respect to a disaster-dam-  
12                   aged property, are equal to 100 percent of  
13                   the fair market rents for the relevant mar-  
14                   ket area (as such rents were in effect at  
15                   the time of such disaster); and

16                   “(ii) with respect to other eligible  
17                   multifamily housing projects, are equal”.

18       (b)   OWNER INVESTMENT.—Section 517(c) of the  
19   Multifamily Assisted Housing Reform and Affordability  
20   Act of 1997 (42 U.S.C. 1437f note) is amended by adding  
21   at the end the following:

22                   “(3) PROPERTIES DAMAGED BY NATURAL DIS-  
23       ASTERS.—With respect to a disaster-damaged eligi-  
24       ble property, the owner contribution toward rehabili-

1       tation needs shall be determined in accordance with  
2       paragraph (2)(C).”.

3   **SEC. 514. FUNDING FOR TENANT AND OTHER PARTICIPA-**  
4                   **TION AND CAPACITY BUILDING.**

5       Paragraph (3) of section 514(f) of the Multifamily  
6   Assisted Housing Reform and Affordability Act of 1997  
7   (42 U.S.C. 1437f note) is amended—

8               (1) in subparagraph (A)—

9                   (A) in the first sentence—

10                       (i) by striking “not more than” and  
11                       inserting “not less than”;

12                       (ii) by striking “of low-income housing  
13                       for which project-based rental assistance is  
14                       provided at below market rent levels and  
15                       may not be renewed” and inserting the fol-  
16                       lowing: “and improvement of low-income  
17                       housing for which project-based rental as-  
18                       sistance, subsidized loans, or enhanced  
19                       vouchers under section 8(t) are provided”;  
20                       and

21                       (iii) in the second parenthetical  
22                       clause, by inserting before the closing pa-  
23                       renthesis the following: “, and  
24                       predevelopment assistance to enable such  
25                       transfers”; and

(B) by inserting after the period at the end the following: “For outreach and training of tenants and technical assistance, the Secretary shall implement a grant program utilizing performance-based outcome measures for eligible costs incurred. Recipients providing capacity building or technical assistance services to tenant groups shall be qualified nonprofit Statewide, countywide, area-wide or citywide organizations with demonstrated experience including at least a two-year recent track record of organizing and providing assistance to tenants, and independence from the owner, a prospective purchaser, or their managing agents. The Secretary may provide assistance and training to grantees in administrative and fiscal management to ensure compliance with applicable Federal requirements. The Secretary shall expedite the provision of funding for the fiscal year in which the date of the enactment of the Housing Preservation and Tenant Protection Act of 2010 occurs by entering into new multi-year contracts with any prior grantee without adverse audit findings or whose adverse audit findings have been cleared, and by entering into

1 an interagency agreement for not less than  
2 \$1,000,000 with the Corporation for National  
3 and Community Service or any other agency of  
4 the Federal Government, that is selected by the  
5 Secretary and the Secretary determines is  
6 qualified to conduct such program, to conduct  
7 a tenant outreach and training program under  
8 the same or similar terms and conditions as  
9 was most recently conducted by the Corpora-  
10 tion. The Secretary shall also make available  
11 flexible grants to qualified nonprofit organiza-  
12 tions that do not own eligible multifamily prop-  
13 erties, for tenant outreach in underserved areas,  
14 and to experienced national or regional non-  
15 profit organizations to provide specialized train-  
16 ing or support to grantees assisted under this  
17 section. Notwithstanding any other provision of  
18 law, funds authorized under this section for any  
19 fiscal year shall be available for obligation in  
20 subsequent fiscal years. The Secretary shall re-  
21 quire each recipient of amounts made available  
22 pursuant to this subparagraph to submit to the  
23 Secretary reports, on a quarterly basis, detail-  
24 ing the use of such funds and including such in-  
25 formation as the Secretary shall require.”; and



1           (2) by adding at the end the following new sub-  
2 paragraphs:

3           “(D) PROHIBITIONS.—None of the funds  
4 made available under subparagraph (A) may be  
5 used for any political activities, political advo-  
6 cacy, or lobbying (as such terms are defined by  
7 Circular A–122 of the Office of Management  
8 and Budget, entitled ‘Cost Principles for Non-  
9 Profit Organizations’), or for expenses for trav-  
10 el to engage in political activities or preparation  
11 of or provision of advice on tax returns.

12           “(E) PROGRAM COMPLIANCE SYSTEMS.—  
13 Each recipient of amounts made available under  
14 subparagraph (A) shall develop systems to en-  
15 sure compliance with the program and the re-  
16 quirements of this paragraph.

17           “(F) PENALTIES.—The Secretary may im-  
18 pose penalties on any recipient of amounts  
19 made available under subparagraph (A) that  
20 fails to comply with any requirement under this  
21 paragraph or of the program established pursu-  
22 ant to this paragraph, which penalties may in-  
23 clude—

1 “(i) ineligibility for further assistance  
 2 from amounts made available under sub-  
 3 paragraph (A); and  
 4 “(ii) requiring the recipient to reim-  
 5 burse the Secretary for any amounts that  
 6 were so misused.”.

## 7 **TITLE VI—PRESERVATION** 8 **DATABASE**

### 9 **SEC. 601. PRESERVATION DATABASE.**

10 (a) UNIQUE IDENTIFIER.—The Secretary of Housing  
 11 and Urban Development, in consultation with the Sec-  
 12 retary of Agriculture, shall establish a unique alpha-  
 13 numeric identifier for each covered multifamily property  
 14 (as such term is defined in subsection (i)). A property  
 15 shall have only one such identifier, regardless of whether  
 16 such property is receiving more than one of the forms of  
 17 assistance identified in subsection (i).

18 (b) PUBLIC AVAILABILITY OF INFORMATION.—The  
 19 Secretary of Housing and Urban Development shall re-  
 20 quire the submission of information and make publicly  
 21 available such information about each covered multifamily  
 22 property, which information shall include the following:

23 (1) The unique identifier for the property estab-  
 24 lished pursuant to subsection (a).

25 (2) The name of the property.

1           (3) The address and geographical coordinates of  
2           the property.

3           (4) The name of, and contact information for,  
4           the owner (or owners) or sponsor (or sponsors) of  
5           the property.

6           (5) A characterization of the type of owners or  
7           sponsors of the property (such as nonprofit or for-  
8           profit).

9           (6) The name of, and contact information for,  
10          the property management company.

11          (7) The year that the property was built or  
12          placed in service.

13          (8) The total number of dwelling units in the  
14          property.

15          (9) The total number of dwelling units in the  
16          property of each size (such as studio units, 1-bed-  
17          room units, or 2-bedroom units).

18          (10) The average income of tenants residing in  
19          dwelling units in the property receiving project-based  
20          rental assistance, according to the most recent avail-  
21          able information.

22          (11) For each size of dwelling unit in the prop-  
23          erty, the contract rents for such dwelling units.

24          (12) For each size of dwelling unit in the prop-  
25          erty, the ratio of the contract rents for such dwelling

1 units to the fair market rent established under sec-  
2 tion 8(c) of the United States Housing Act of 1937  
3 for such size dwelling units for the area in which the  
4 property is located.

5 (13) The most recent 3 scores for the property  
6 for any physical inspections, including any real es-  
7 tate assessment center (REAC) scores for the prop-  
8 erty, and the dates of such inspections.

9 (14) Indicators of the financial condition of the  
10 property, which may include notification of any fore-  
11 closure proceedings on the property and any bank-  
12 ruptcy filings by the entity holding title to the prop-  
13 erty.

14 (15) The form or forms of assistance identified  
15 in subsection (i) that are provided for the property.

16 (16) For each form of assistance identified in  
17 subsection (i) that is provided for the property, the  
18 total number of dwelling units in the property for  
19 which such assistance is provided.

20 (17) For each form of assistance identified in  
21 subsection (i) that is provided for the property, the  
22 total number of assisted dwelling units in the prop-  
23 erty of each size (such as studio units, 1-bedroom  
24 units, and 2-bedroom units).

1           (18) For each form of assistance identified in  
2           subsection (i) that is provided for the property, a  
3           characterization of occupancy restrictions applicable  
4           to the property (such as restrictions limiting occu-  
5           pancy to only elderly, disabled, or families).

6           (19) For each form of assistance identified in  
7           subsection (i) that is provided for the property, any  
8           limitations on the incomes of tenants applicable to  
9           the assistance.

10          (20) For each form of assistance identified in  
11          subsection (i) that is provided for the property, the  
12          day, month, and year that any affordability or low-  
13          income use restrictions applicable to the property  
14          first applied.

15          (21) For each form of assistance identified in  
16          subsection (i) that is provided for the property, the  
17          day, month, and year that any affordability or low-  
18          income use restrictions applicable to the property  
19          will terminate.

20          (22) For each form of assistance identified in  
21          subsection (i) that is provided for the property, the  
22          day, month, and year of any early termination date  
23          for such form of assistance after which any afford-  
24          ability or low-income use restrictions will not nec-  
25          essarily apply to the property (such as the termi-

1 nation of the compliance period for any low-income  
2 housing tax credit for the property or the date that  
3 a loan or mortgage for the property held or insured  
4 by the Secretary is first eligible for prepayment).

5 (23) Any notices, plans, and information relat-  
6 ing to the property required under the Low-Income  
7 Housing Preservation and Resident Homeownership  
8 Act of 1990 (12 U.S.C. 4101 et seq.), including any  
9 notice of intent to prepay a mortgage under section  
10 212 of such Act, information provided under section  
11 216 of such Act by the Secretary, second notice of  
12 intent under section 216(d) of such Act, plan of ac-  
13 tion under section 217 of such Act, and notice of ap-  
14 proval of a plan of action under section 225 of such  
15 Act.

16 (24) Any notice of a request to terminate an in-  
17 surance contract under title II of the National  
18 Housing Act for a loan or mortgage on the property.

19 (25) Any notice of a request to prepay a loan  
20 or mortgage on the property insured under title II  
21 of the National Housing Act and an indication of  
22 whether such request was made in conjunction with  
23 a refinance application under such title.

24 (26) Any notice under section 8(c)(8) of the  
25 United States Housing Act of 1937 of proposed ter-

1       mination of an assistance contract under such sec-  
2       tion for the property.

3           (27) A description of any notice indicating an  
4       intention of the owner in selling the property.

5           (28) Any other information as the Secretary or  
6       the designee of the Secretary determines is appro-  
7       priate.

8       (c) MEANS.—

9           (1) AVAILABILITY THROUGH WORLD WIDE  
10      WEB.—The information made available pursuant to  
11      subsection (b) shall be made available to the public  
12      through a World Wide Web site of the Department  
13      of Housing and Urban Development.

14          (2) SEARCHABLE ELECTRONIC DATABASE.—  
15      Such information shall be made available in a  
16      searchable electronic database format that allows for  
17      the data for each of the forms of assistance specified  
18      in subsection (i) to be aggregated in a single data-  
19      base.

20          (3) USE OF EXISTING SYSTEMS AND DATA-  
21      BASES.—The requirements of subsection (b) may be  
22      met by adapting existing systems or databases to in-  
23      clude the unique identifier established pursuant to  
24      subsection (a) and the information specified in sub-  
25      section (b).

1           (4) ANNUAL AND QUARTERLY LIST.—At least  
2           annually, the Secretary shall update and make avail-  
3           able a list of properties receiving one or more forms  
4           of assistance specified in subsection (i). At least on  
5           a quarterly basis, the Secretary shall make available  
6           through a World Wide Web site of the Department  
7           of Housing and Urban Development a list of prop-  
8           erties receiving one or more forms of assistance  
9           specified in subsection (i). Each such annual and  
10          quarterly list shall include, for each such property,  
11          the unique identifier established pursuant to sub-  
12          section (a) and the information specified in para-  
13          graphs (1) through (3) of subsection (b).

14          (d) UPDATING.—The information made available  
15          pursuant to subsection (b) shall be updated not less than  
16          annually or in accordance with any rules or practice appli-  
17          cable to the subsidy program involved that require infor-  
18          mation to be made available more frequently. Any histor-  
19          ical databases shall remain available to the public through  
20          a World Wide Web site of the Department of Housing and  
21          Urban Development.

22          (e) INITIAL AVAILABILITY.—The Secretary of Hous-  
23          ing and Urban Development shall make information ini-  
24          tially publicly available pursuant to this section not later



1 than the expiration of the 18-month period beginning on  
2 the date of the enactment of this Act.

3 (f) INFORMATION FROM DEPARTMENT OF AGRI-  
4 CULTURE.—The Secretary of Agriculture shall take such  
5 actions as may be necessary to ensure that information  
6 regarding any covered multifamily properties described in  
7 paragraphs (1)(E) and (3)(G) of subsection (i) that is suf-  
8 ficient for the Secretary of Housing and Urban Develop-  
9 ment to comply with the requirements of this section, with  
10 respect to such properties, is timely made available to the  
11 Secretary of Housing and Urban Development.

12 (g) INFORMATION FROM SECRETARY OF THE TREAS-  
13 URY.—The Secretary of the Treasury shall take such ac-  
14 tions as may be necessary to ensure that information re-  
15 garding any covered multifamily properties described in  
16 paragraphs (4) and (6) of subsection (i) that is sufficient  
17 for the Secretary of Housing and Urban Development to  
18 comply with the requirements of this section, with respect  
19 to such properties, is timely made available to the Sec-  
20 retary of Housing and Urban Development.

21 (h) GRANTS TO STATES AND LOCALITIES.—

22 (1) AUTHORITY.—The Secretary of Housing  
23 and Urban Development shall, to the extent amounts  
24 are made available for grants under this subsection,  
25 make grants to States and units of local government

1 to enable such entities to collect and make available  
2 to the public information about State and local as-  
3 sistance provided to covered multifamily properties  
4 identified in databases developed by the Secretary  
5 pursuant to this section or to other properties as-  
6 sisted by such States and units of local government.

7 (2) AUTHORIZATION OF APPROPRIATIONS.—

8 There is authorized to be appropriated to the Sec-  
9 retary of Housing and Urban Development for  
10 grants under this subsection such sums as may be  
11 necessary in each fiscal year to carry out this sub-  
12 section.

13 (i) COVERED MULTIFAMILY PROPERTIES.—For pur-  
14 poses of this section, the term “covered multifamily prop-  
15 erty” means a property consisting of more than 4 rental  
16 dwelling units, which property—

17 (1) is covered in whole or in part by a contract  
18 for assistance that is attached to the structure  
19 under—

20 (A) section 8 of the United States Housing  
21 Act of 1937 (42 U.S.C. 1437f), including—

22 (i) subsections (b) and (o)(13) of such  
23 section 8;

24 (ii) the new construction and substan-  
25 tial rehabilitation program under such sec-

1                   tion 8(b)(2), as in effect before October 1,  
2                   1983;

3                   (iii) the property disposition program  
4                   under such section 8(b);

5                   (iv) the moderate rehabilitation pro-  
6                   gram under such section 8(e)(2); and

7                   (v) the loan management assistance  
8                   program under such section 8;

9                   (B) section 23 of the United States Hous-  
10                  ing Act of 1937, as in effect before January 1,  
11                  1975;

12                  (C) the rent supplement program under  
13                  section 101 of the Housing and Urban Develop-  
14                  ment Act of 1965 (12 U.S.C. 1701s);

15                  (D) section 8 of the United States Housing  
16                  Act of 1937, following conversion from assist-  
17                  ance under section 101 of the Housing and  
18                  Urban Development Act of 1965; or

19                  (E) section 521 of the Housing Act of  
20                  1949 (42 U.S.C. 1490a);

21                  (2) is financed by a mortgage insured or held  
22                  by the Secretary under title II of the National Hous-  
23                  ing Act (12 U.S.C. 1707 et seq.);

24                  (3) receives assistance that is attached to the  
25                  structure pursuant to—

1 (A) section 202 of the Housing Act of  
2 1959 (12 U.S.C. 1701q), including properties  
3 receiving assistance prior to the enactment of  
4 the Cranston-Gonzalez National Affordable  
5 Housing Act;

6 (B) section 811 of the Cranston-Gonzalez  
7 National Affordable Housing Act (42 U.S.C.  
8 8013);

9 (C) section 5 or 9 of the United States  
10 Housing Act of 1937 (42 U.S.C. 1437e,  
11 1437g);

12 (D) title II of the Cranston-Gonzalez Na-  
13 tional Affordable Housing Act (42 U.S.C.  
14 12721 et seq.);

15 (E) subtitle D of title VIII of the Cran-  
16 ston-Gonzalez National Affordable Housing Act  
17 (42 U.S.C. 12901 et seq.);

18 (F) title IV of the McKinney-Vento Home-  
19 less Assistance Act (12 U.S.C. 11301 et seq.);  
20 or

21 (G) sections 514, 515, or 516 of the Hous-  
22 ing Act of 1949 (42 U.S.C. 1484, 1485);

23 (4) is financed in whole or part with low-income  
24 housing tax credits pursuant to section 42 of the In-  
25 ternal Revenue Code of 1986 (26 U.S.C. 42);

1           (5) is financed in whole or part with amounts  
2           from the Housing Trust Fund established under sec-  
3           tion 1338 of the Federal Housing Enterprises Fi-  
4           nancial Safety and Soundness Act of 1992 (12  
5           U.S.C. 4568); or

6           (6) is financed in whole or in part with the pro-  
7           ceeds from a bond issued pursuant to section 141 or  
8           142 of the Internal Revenue Code of 1986 (26  
9           U.S.C. 141, 142).

10          (j) PROTECTION OF INFORMATION.—This title shall  
11       not be construed to require disclosure of Social Security  
12       numbers, personal tax returns, or any other personal fi-  
13       nancial information of or concerning individuals who have  
14       an interest in the ownership or management entities of  
15       covered housing.

16       **TITLE VII—SECTION 202 SUP-**  
17       **PORTIVE HOUSING FOR THE**  
18       **ELDERLY**

19       **SEC. 701. SHORT TITLE AND TABLE OF CONTENTS.**

20           This title may be cited as the “Section 202 Sup-  
21       portive Housing for the Elderly Act of 2010”.

## **Subtitle A—New Construction Reforms**

### **SEC. 711. PROJECT RENTAL ASSISTANCE.**

Paragraph (2) of section 202(c) of the Housing Act of 1959 (12 U.S.C. 1701q(c)(2)) is amended—

(1) by inserting after “ASSISTANCE.—” the following: “(A) INITIAL PROJECT RENTAL ASSISTANCE CONTRACT.—”;

(2) in the last sentence, by striking “may” and inserting “shall”; and

(3) by adding at the end the following new subparagraph:

“(B) RENEWAL OF AND INCREASES IN CONTRACT AMOUNTS.—

“(i) EXPIRATION OF CONTRACT TERM.—

Upon the expiration of each contract term, the Secretary shall adjust the annual contract amount to provide for reasonable project costs, and any increases, including adequate reserves, supportive services, and service coordinators.

“(ii) EMERGENCY SITUATIONS.—In the event of emergency situations that are outside the control of the owner, the Secretary shall increase the annual contract amount, subject to

1 reasonable review and limitations as the Sec-  
2 retary shall provide.”.

3 **SEC. 712. SELECTION CRITERIA.**

4 Section 202(f)(1) of the Housing Act of 1959 (12  
5 U.S.C. 1701q(f)) is amended—

- 6 (1) by redesignating subparagraphs (F) and  
7 (G) as subparagraphs (G) and (H), respectively; and  
8 (2) by inserting after subparagraph (E):

9 “(F) the extent to which the applicant has en-  
10 sured that a service coordinator will be employed or  
11 otherwise retained for the housing, who has the  
12 managerial capacity and responsibility for carrying  
13 out the actions described in subparagraphs (A) and  
14 (B) of subsection (g)(2);”.

15 **SEC. 713. DEVELOPMENT COST LIMITATIONS.**

16 Section 202(h)(1) of the Housing Act of 1959 (12  
17 U.S.C. 1701q(h)(1)) is amended, in the matter preceding  
18 subparagraph (A), by inserting “reasonable” before “de-  
19 velopment cost limitations”.

20 **SEC. 714. OWNER DEPOSITS.**

21 Section 202(j)(3)(A) of the Housing Act of 1959 (12  
22 U.S.C. 1701q(j)(3)(A)) is amended by inserting after the  
23 period at the end the following: “Such amount shall be  
24 used only to cover operating deficits during the first 3  
25 years of operations and shall not be used to cover con-

1   struction shortfalls or inadequate initial project rental as-  
2   sistance amounts.”.

3   **SEC. 715. DEFINITION OF PRIVATE NONPROFIT ORGANIZA-**  
4                   **TION.**

5           Paragraph (4) of section 202(k) of the Housing Act  
6   of 1959 (12 U.S.C. 1701q(k)(4)) is amended to read as  
7   follows:

8                   “(4) The term “private nonprofit organization”  
9           means—

10                   “(A) any incorporated private institution  
11           or foundation—

12                           “(i) no part of the net earnings of  
13                           which inures to the benefit of any member,  
14                           founder, contributor, or individual;

15                           “(ii) which has a governing board—

16                                   “(I) the membership of which is  
17                                   selected in a manner to assure that  
18                                   there is significant representation of  
19                                   the views of the community in which  
20                                   such housing is located, except that,  
21                                   in the case of any organization that is  
22                                   the sponsor of multiple housing  
23                                   projects assisted under this section,  
24                                   the organization may comply with this  
25                                   subclause by having a local advisory



1 board for each community to the gov-  
2 erning board of the organization, the  
3 membership of which is selected in the  
4 manner required under this subclause;  
5 and

6 “(II) which is responsible for the  
7 operation of the housing assisted  
8 under this section; and

9 “(iii) which is approved by the Sec-  
10 retary as to financial responsibility;

11 “(B) a for-profit limited partnership the  
12 sole general partner of which is—

13 “(i) an organization meeting the re-  
14 quirements under subparagraphs (A); or

15 “(ii) a for-profit corporation wholly  
16 owned and controlled by one or more orga-  
17 nizations meeting the requirements under  
18 subparagraph (A); and

19 “(C) a limited liability company wholly  
20 owned or controlled by one or more organiza-  
21 tions meeting the requirements under subpara-  
22 graph (A).”.

1 **SEC. 716. PREFERENCES FOR HOMELESS ELDERLY.**

2 Subsection (j) of section 202 of the Housing Act of  
3 1959 (12 U.S.C. 1701q(j)) is amended by adding at the  
4 end the following new paragraph:

5 “(9) PREFERENCES FOR HOMELESS ELDER-  
6 LY.—The Secretary shall permit an owner of hous-  
7 ing assisted under this section to establish for, and  
8 apply to, such housing a preference in tenant selec-  
9 tion for the homeless elderly, either within the appli-  
10 cation or after selection pursuant to subsection (f),  
11 but only if—

12 “(A) such preference is consistent with  
13 paragraph (2); and

14 “(B) the owner demonstrates that the sup-  
15 portive services identified pursuant to sub-  
16 section (e)(4), or additional supportive services  
17 to be made available upon implementation of  
18 the preference, will meet the needs of the home-  
19 less elderly, maintain safety and security for all  
20 tenants, and be provided on a consistent, long-  
21 term, and economical basis.”.

22 **SEC. 717. NONMETROPOLITAN ALLOCATION.**

23 Paragraph (3) of section 202(l) of the Housing Act  
24 of 1959 (12 U.S.C. 1701q(l)(3)) is amended by inserting  
25 after the period at the end the following: “In complying  
26 with this paragraph, the Secretary shall either operate a

1 national competition for the nonmetropolitan funds or  
 2 make allocations to regional offices of the Department of  
 3 Housing and Urban Development.”.

## 4 **Subtitle B—Refinancing**

### 5 **SEC. 721. APPROVAL OF PREPAYMENT OF DEBT.**

6 Subsection (a) of section 811 of the American Home-  
 7 ownership and Economic Opportunity Act of 2000 (12  
 8 U.S.C. 1701q note) is amended—

9 (1) in the matter preceding paragraph (1), by  
 10 inserting “, for which the Secretary’s consent to pre-  
 11 payment is required,” after “Affordable Housing  
 12 Act)”;

13 (2) in paragraph (1)—

14 (A) by inserting “at least 30 years fol-  
 15 lowing” before “the maturity date”;

16 (B) by inserting “project-based” before  
 17 “rental assistance payments contract”;

18 (C) by inserting “project-based” before  
 19 “rental housing assistance programs”; and

20 (D) by inserting “, or any successor  
 21 project-based rental assistance program,” after  
 22 “1701s))”;

23 (3) by amending paragraph (2) to read as fol-  
 24 lows:

1           “(2) the prepayment may involve refinancing of  
2       the loan if such refinancing results in—

3           “(A) a lower interest rate on the principal  
4       of the loan for the project and in reductions in  
5       debt service related to such loan; or

6           “(B) a transaction in which the project  
7       owner will address the physical needs of the  
8       project, but only if, as a result of the refi-  
9       nancing—

10           “(i) the rent charges for unassisted  
11       families residing in the project do not in-  
12       crease or such families are provided rental  
13       assistance under a senior preservation  
14       rental assistance contract for the project  
15       pursuant to subsection (e); and

16           “(ii) the overall cost for providing  
17       rental assistance under section 8 for the  
18       project (if any) is not increased, except,  
19       upon approval by the Secretary to—

20           “(I) mark-up-to-market contracts  
21       pursuant to section 524(a)(3) of the  
22       Multifamily Assisted Housing Reform  
23       and Affordability Act of 1997 (42  
24       U.S.C. 1437f note), as such section is  
25       carried out by the Secretary for prop-

1                   erties owned by nonprofit organiza-  
2                   tions; or

3                   “(II) mark-up-to-budget con-  
4                   tracts pursuant to section 524(a)(4)  
5                   of the Multifamily Assisted Housing  
6                   Reform and Affordability Act of 1997  
7                   (42 U.S.C. 1437f note), as such sec-  
8                   tion is carried out by the Secretary  
9                   for properties owned by eligible own-  
10                  ers (as such term is defined in section  
11                  202(k) of the Housing Act of 1959  
12                  (12 U.S.C. 1701q(k)); and”; and

13               (4) by adding at the end the following:

14               “(3) notwithstanding paragraph (2)(A), the  
15               prepayment and refinancing authorized pursuant to  
16               paragraph (2)(B) involves an increase in debt service  
17               only in the case of a refinancing of a project assisted  
18               with a loan under such section 202 carrying an in-  
19               terest rate of 6 percent or lower.”.

20   **SEC. 722. SOURCES OF REFINANCING.**

21               The last sentence of section 811(b) of the American  
22   Homeownership and Economic Opportunity Act of 2000  
23   (12 U.S.C. 1701q note) is amended—

24               (1) by inserting after “National Housing Act,”  
25               the following: “or approving the standards used by

1 authorized lenders to underwrite a loan refinanced  
2 with risk sharing as provided by section 542 of the  
3 Housing and Community Development Act of 1992  
4 (12 U.S.C. 1701 note),”; and

5 (2) by striking “may” and inserting “shall”.

6 **SEC. 723. USE OF UNEXPENDED AMOUNTS.**

7 Subsection (c) of section 811 of the American Home-  
8 ownership and Economic Opportunity Act of 2000 (12  
9 U.S.C. 1701q note) is amended—

10 (1) by striking “USE OF UNEXPENDED  
11 AMOUNTS.—” and inserting “USE OF PRO-  
12 CEEDS.—”;

13 (2) by amending the matter preceding para-  
14 graph (1) to read as follows: “Upon execution of the  
15 refinancing for a project pursuant to this section,  
16 the Secretary shall ensure that proceeds are used in  
17 a manner advantageous to tenants of the project, or  
18 are used in the provision of affordable rental hous-  
19 ing and related social services for elderly persons  
20 that are tenants of the project or of other projects  
21 assisted with a loan under section 202 of the Hous-  
22 ing Act of 1959 (12 U.S.C. 1701q) by the private  
23 nonprofit organization project owner, private non-  
24 profit organization project sponsor, or private non-  
25 profit organization project developer, including—”;

1           (3) in paragraph (1), by striking “not more  
2           than 15 percent of”;

3           (4) in paragraph (2), by inserting before the  
4           semicolon the following; “, including reducing the  
5           number of units by reconfiguring units that are  
6           functionally obsolete, unmarketable, or not economi-  
7           cally viable”;

8           (5) in paragraph (3), by striking “or” at the  
9           end;

10          (6) in paragraph (4), by striking “according to  
11          a pro rata allocation of shared savings resulting  
12          from the refinancing.” and inserting a semicolon;  
13          and

14          (7) by adding at the end the following new  
15          paragraphs:

16               “(5) rehabilitation of the project to ensure long-  
17               term viability;

18               “(6) the payment to the project owner, sponsor,  
19               or third party developer of a developer’s fee in an  
20               amount not to exceed or duplicate—

21                       “(A) in the case of a project refinanced  
22                       through a State low income housing tax credit  
23                       program, the fee permitted by the low income  
24                       housing tax credit program as calculated by the  
25                       State program as a percentage of acceptable de-

1 development cost as defined by that State pro-  
2 gram; or

3 “(B) in the case of a project refinanced  
4 through any other source of refinancing, 15  
5 percent of the acceptable development cost; and  
6 “(7) the payment of equity, if any, to—

7 “(A) in the case of a sale, to the seller or  
8 the sponsor of the seller, in an amount equal to  
9 the lesser of the purchase price or the appraised  
10 value of the project, as each is reduced by the  
11 cost of prepaying any outstanding indebtedness  
12 on the project and transaction costs of the sale;  
13 or

14 “(B) in the case of a refinancing without  
15 the transfer of the project, to the project owner  
16 or the project sponsor, in an amount equal to  
17 the difference between the appraised value of  
18 the project less the outstanding indebtedness  
19 and total acceptable development cost.

20 For purposes of paragraphs (6)(B) and (7)(B), the term  
21 “acceptable development cost” shall include, as applicable,  
22 the cost of acquisition, rehabilitation, loan prepayment,  
23 initial reserve deposits, and transaction costs.”.



1 **SEC. 724. USE OF PROJECT RESIDUAL RECEIPTS.**

2 Paragraph (1) of section 811(d) of the American  
3 Homeownership and Economic Opportunity Act of 2000  
4 (12 U.S.C. 1701q note) is amended—

5 (1) by striking “not more than 15 percent of”;

6 and

7 (2) by inserting before the period at the end the  
8 following: “or other purposes approved by the Sec-  
9 retary”.

10 **SEC. 725. ADDITIONAL PROVISIONS.**

11 Section 811 of the American Homeownership and  
12 Economic Opportunity Act of 2000 (12 U.S.C. 1701q  
13 note) is amended by adding at the end the following new  
14 subsections:

15 “(e) SENIOR PRESERVATION RENTAL ASSISTANCE  
16 CONTRACTS.—Notwithstanding any other provision of  
17 law, in connection with a prepayment plan for a project  
18 approved under subsection (a) by the Secretary or as oth-  
19 erwise approved by the Secretary to prevent displacement  
20 of elderly residents of the project in the case of refinancing  
21 or recapitalization and to further preservation and afford-  
22 ability of such project, the Secretary shall provide project-  
23 based rental assistance for the project under a senior pres-  
24 ervation rental assistance contract, as follows:

1           “(1) Assistance under the contract shall be  
2           made available to the private nonprofit organization  
3           owner—

4                   “(A) for a term of at least 20 years, sub-  
5           ject to annual appropriations; and

6                   “(B) under the same rules governing  
7           project-based rental assistance made available  
8           under section 8 of the Housing Act of 1937 or  
9           under the rules governing such other assistance  
10          as may be made available for the project.

11          “(2) Any projects for which a senior preserva-  
12          tion rental assistance contract is provided shall be  
13          subject to a use agreement to ensure continued  
14          project affordability having a term of the longer of  
15          (A) the term of the senior preservation rental assist-  
16          ance contract, or (B) such term as is required by the  
17          new financing.

18          “(f) SUBORDINATION OR ASSUMPTION OF EXISTING  
19          DEBT.—In lieu of prepayment under this section of the  
20          indebtedness with respect to a project, the Secretary may  
21          approve—

22                 “(1) in connection with new financing for the  
23          project, the subordination of the loan for the project  
24          under section 202 of the Housing Act of 1959 (as  
25          in effect before the enactment of the Cranston-Gon-

1       zalez National Affordable Housing Act) and the con-  
2       tinued subordination of any other existing subordi-  
3       nate debt previously approved by the Secretary to  
4       facilitate preservation of the project as affordable  
5       housing; or

6               “(2) the assumption (which may include the  
7       subordination described in paragraph (1)) of the  
8       loan for the project under such section 202 in con-  
9       nection with the transfer of the project with such a  
10      loan to a private nonprofit organization.

11      “(g) FLEXIBLE SUBSIDY DEBT.—The Secretary  
12   shall waive the requirement that debt for a project pursu-  
13   ant to the flexible subsidy program under section 201 of  
14   the Housing and Community Development Amendments  
15   of 1978 (12 U.S.C. 1715z–1a) be prepaid in connection  
16   with a prepayment, refinancing, or transfer under this sec-  
17   tion of a project if such waiver is necessary for the finan-  
18   cial feasibility of the transaction and is consistent with  
19   the long-term preservation of the project as affordable  
20   housing.

21      “(h) TENANT INVOLVEMENT IN PREPAYMENT AND  
22   REFINANCING.—The Secretary shall not accept an offer  
23   to prepay the loan for any project under section 202 of  
24   the Housing Act of 1959 unless the Secretary has—

1 “(1) determined that the owner of the project  
 2 has notified the tenants of the owner’s request for  
 3 approval of a prepayment;

4 “(2) determined that the owner of the project  
 5 has provided the tenants with an opportunity to  
 6 comment on the owner’s request for approval of a  
 7 prepayment, including a description of any antici-  
 8 pated rehabilitation or other use of the proceeds  
 9 from the transaction, and its impacts on project  
 10 rents, tenant contributions, or the affordability re-  
 11 strictions for the project; and

12 “(3) taken such comments into consideration.

13 “(i) DEFINITION OF PRIVATE NONPROFIT ORGANI-  
 14 ZATION.—For purposes of this section, the term ‘private  
 15 nonprofit organization’ has the meaning given such term  
 16 in section 202(k) of the Housing Act of 1959 (12 U.S.C.  
 17 1701q(k)).”.

## 18 **Subtitle C—Assisted Living** 19 **Facilities**

### 20 **SEC. 731. DEFINITION OF ASSISTED LIVING FACILITY.**

21 Section 202b(g) of the Housing Act of 1959 (12  
 22 U.S.C. 1701q–2(g)) is amended by striking paragraph (1)  
 23 and inserting the following new paragraph:

24 “(1) the term ‘assisted living facility’ means a  
 25 facility that—

1           “(A) is owned by a private nonprofit orga-  
2           nization; and

3           “(B)(i) is licensed and regulated by a  
4           State (or if there is no State law providing for  
5           such licensing and regulation by the State, by  
6           the municipality or other political subdivision in  
7           which the facility is located); or

8           “(ii)(I) makes available, directly or  
9           through licensed or certified third party service  
10          providers, to residents at the resident’s request  
11          or choice supportive services to assist the resi-  
12          dents in carrying out the activities of daily liv-  
13          ing, as described in section 232(b)(6)(B) of the  
14          National Housing Act (12 U.S.C.  
15          1715w(b)(6)(B)); and

16          “(II) provides separate dwelling units for  
17          residents, each of which may contain a full  
18          kitchen and bathroom and which includes com-  
19          mon rooms and other facilities appropriate for  
20          the provision of supportive services to the resi-  
21          dents of the facility; and”.

22   **SEC. 732. MONTHLY ASSISTANCE PAYMENT UNDER RENTAL**  
23           **ASSISTANCE.**

24          Clause (iii) of section 8(o)(18)(B) of the United  
25   States Housing Act of 1937 (42 U.S.C.

1 1437f(o)(18)(B)(iii)) is amended by inserting before the  
 2 period at the end the following: “, except that a family  
 3 may be required at the time the family initially receives  
 4 such assistance to pay rent in an amount exceeding 40  
 5 percent of the monthly adjusted income of the family by  
 6 such an amount or percentage that is reasonable given the  
 7 services and amenities provided and as the Secretary  
 8 deems appropriate.”.

## 9           **Subtitle D—National Senior** 10           **Housing Clearinghouse**

### 11 **SEC. 741. NATIONAL SENIOR HOUSING CLEARINGHOUSE.**

12           (a) ESTABLISHMENT.—Not later than 12 months  
 13 after the date of enactment of this Act, the Secretary of  
 14 Housing and Urban Development (in this section referred  
 15 to as the “Secretary”) shall establish and operate a clear-  
 16 inghouse to serve as a national repository to receive, col-  
 17 lect, process, assemble, and disseminate information re-  
 18 garding the availability and quality of multifamily develop-  
 19 ments for elderly tenants, including—

20                   (1) the availability of—

21                           (A) supportive housing for the elderly pur-  
 22                           suant to section 202 of the Housing Act of  
 23                           1959 (12 U.S.C. 1701q), including any housing  
 24                           unit assisted with a project rental assistance  
 25                           contract under such section;

1 (B) properties and units eligible for assist-  
2 ance under section 8 of the United States  
3 Housing Act of 1937 (42 U.S.C. 1437f);

4 (C) properties eligible for the low-income  
5 housing tax credit under section 42 of the In-  
6 ternal Revenue Code of 1986;

7 (D) units in assisted living facilities in-  
8 sured pursuant to section 221(d)(4) of the Na-  
9 tional Housing Act (12 U.S.C. 1715l(d)(4));

10 (E) units in any multifamily project that  
11 has been converted into an assisted living facil-  
12 ity for elderly persons pursuant to section 202b  
13 of the Housing Act of 1959 (12 U.S.C. 1701q-  
14 2); and

15 (F) any other federally assisted or sub-  
16 sidized housing for the elderly;

17 (2) the number of available units in each prop-  
18 erty, project, or facility described in paragraph (1);

19 (3) the number of bedrooms in each available  
20 unit in each property, project, or facility described in  
21 paragraph (1);

22 (4) the estimated cost to a potential tenant to  
23 rent or reside in each available unit in each prop-  
24 erty, project, or facility described in paragraph (1);

1           (5) the presence of a waiting list for entry into  
2           any available unit in each property, project, or facil-  
3           ity described in paragraph (1);

4           (6) the number of persons on the waiting list  
5           for entry into any available unit in each property,  
6           project, or facility described in paragraph (1);

7           (7) the amenities available in each available  
8           unit in each property, project, or facility described in  
9           paragraph (1), including—

10                (A) the services provided by such property,  
11                project, or facility;

12                (B) the size and availability of common  
13                space within each property, project, or facility;

14                (C) the availability of organized activities  
15                for individuals residing in such property,  
16                project, or facility; and

17                (D) any other additional amenities avail-  
18                able to individuals residing in such property,  
19                project, or facility;

20           (8) the level of care (personal, physical, or nurs-  
21           ing) available to individuals residing in any property,  
22           project, or facility described in paragraph (1);

23           (9) whether there is a service coordinator in  
24           any property, project, or facility described in para-  
25           graph (1); and



1           (10) any other criteria determined appropriate  
2       by the Secretary.

3       (b) COLLECTION AND UPDATING OF INFORMA-  
4 TION.—

5           (1) INITIAL COLLECTION.—Not later than 180  
6       days after the date of enactment of this Act, the  
7       Secretary shall conduct an annual survey requesting  
8       information from each owner of a property, project,  
9       or facility described in subsection (a)(1) regarding  
10      the provisions described in paragraphs (2) through  
11      (11) of such subsection.

12          (2) RESPONSE TIME.—Not later than 60 days  
13      after receiving the request described under para-  
14      graph (1), the owner of each such property, project,  
15      or facility shall submit such information to the Sec-  
16      retary.

17          (3) PUBLIC AVAILABILITY.—Not later than 120  
18      days after the Secretary receives the submission of  
19      any information required under paragraph (2), the  
20      Secretary shall make such information publicly avail-  
21      able through the clearinghouse.

22          (4) UPDATES.—The Secretary shall conduct a  
23      biennial survey of each owner of a property, project,  
24      or facility described in subsection (a)(1) for the pur-  
25      pose of updating or modifying information provided

1 in the initial collection of information under para-  
2 graph (1). Not later than 30 days after receiving  
3 such a request, the owner of each such property,  
4 project, or facility shall submit such updates or  
5 modifications to the Secretary. Not later than 60  
6 days after receiving such updates or modifications,  
7 the Secretary shall inform the clearinghouse of such  
8 updated or modified information.

9 (c) FUNCTIONS.—The clearinghouse established  
10 under subsection (a) shall—

11 (1) respond to inquiries from State and local  
12 governments, other organizations, and individuals re-  
13 questing information regarding the availability of  
14 housing in multifamily developments for elderly ten-  
15 ants;

16 (2) make such information publicly available via  
17 the Internet website of the Department of Housing  
18 and Urban Development, which shall include—

19 (A) access via electronic mail; and

20 (B) an easily searchable, sortable,  
21 downloadable, and accessible index that itemizes  
22 the availability of housing in multifamily devel-  
23 opments for elderly tenants by State, county,  
24 and zip code;

1           (3) establish a toll-free number to provide the  
2           public with specific information regarding the avail-  
3           ability of housing in multifamily developments for el-  
4           derly tenants; and

5           (4) perform any other duty that the Secretary  
6           determines necessary to achieve the purposes of this  
7           section.

8           (d) RELATIONSHIP WITH OTHER DATABASES.—In  
9           carrying out this section, the Secretary may make the  
10          clearinghouse a part of any other multifamily housing  
11          database that the Secretary maintains or is otherwise re-  
12          quired to establish pursuant to this Act or any other provi-  
13          sion of law.

14          (e) AUTHORIZATION OF APPROPRIATIONS.—There  
15          are authorized to be appropriated such sums as necessary  
16          to carry out this section.

## 17       **TITLE VIII—RURAL HOUSING** 18       **PRESERVATION**

### 19       **SEC. 801. SHORT TITLE.**

20          This title may be cited as the “Rural Housing Preser-  
21          vation Act of 2010”.

### 22       **SEC. 802. PRESERVATION OF MULTIFAMILY HOUSING.**

23          (a) PRESERVATION PROGRAM.—Title V of the Hous-  
24          ing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by  
25          adding at the end the following new section:

1   **“SEC. 545. PRESERVATION OF MULTIFAMILY HOUSING AND**  
2                   **PROTECTION OF TENANTS.**

3           “(a) PRESERVATION PROGRAM.—The Secretary  
4 shall, subject to the availability of amounts appropriated,  
5 carry out a preservation program in accordance with this  
6 section to provide financial incentives and other assistance  
7 to owners of eligible projects through long-term use agree-  
8 ments entered into between the project owners and the  
9 Secretary.

10          “(b) APPLICATIONS TO PARTICIPATE.—

11               “(1) IN GENERAL.—The Secretary shall accept  
12 applications from owners of eligible projects to par-  
13 ticipate in the preservation program under this sec-  
14 tion.

15               “(2) PRIORITY.—In selecting among applica-  
16 tions of eligible projects to participate in the preser-  
17 vation program, the Secretary may give priority to  
18 applications for such projects that are located on  
19 tribal trust lands or other Indian areas, in colonias  
20 (as such term is defined in section 916(e) of the  
21 Cranston-Gonzalez National Affordable Housing Act  
22 (42 U.S.C. 5306 note), or in other small, poor, low-  
23 income communities.

24          “(c) LONG-TERM VIABILITY PLAN.—

25               “(1) REQUIREMENT.—The Secretary shall pre-  
26 pare and approve a long-term viability plan under

1       this subsection with respect to each eligible project  
2       for which the owner requests to participate.

3               “(2) CONTENTS.—Each long-term viability plan  
4       for an eligible project shall include the following in-  
5       formation:

6               “(A) PHYSICAL NEEDS ASSESSMENT.—A  
7       physical needs assessment of the project that  
8       identifies and projects, for the following 30  
9       years—

10              “(i) all necessary repairs, improve-  
11       ments, maintenance, and management  
12       standards for the project, and when they  
13       will be made, in order to meet the require-  
14       ments of this title; and

15              “(ii) the costs associated with the  
16       items referred to clause (i).

17              “(B) FINANCIAL PLAN.—A financial plan  
18       for the project that—

19              “(i) reviews the financial stability of  
20       the project;

21              “(ii) includes the loan restructuring  
22       elements, rent adjustments, management  
23       and operational efficiencies, and other fi-  
24       nancial adjustments to the project that are  
25       necessary to cover operating expenses for

1 the project and maintain an adequate fi-  
2 nancial reserve for the future maintenance  
3 and capital needs of the project;

4 “(iii) provides the project owner with  
5 a long-term rate of return on equity of the  
6 project owner, as determined by the Sec-  
7 retary, commensurate to comparable rural  
8 multifamily housing projects for which a  
9 tax credit is provided under section 42 of  
10 the Internal Revenue Code of 1986 (26  
11 U.S.C. 42), and provides that any return  
12 in excess of such rate of return shall be  
13 made available to the Secretary only for  
14 use under section 514, 515, or 516;

15 “(iv) meets the physical needs for the  
16 project determined under the physical  
17 needs assessment;

18 “(v) ensures that rents available  
19 under the plan are affordable to eligible  
20 households in accordance with subsection  
21 (f); and

22 “(vi) addresses any costs associated  
23 with any temporary tenant displacement  
24 resulting from renovations or rehabilitation

1                   undertaken as a result of participation of  
2                   the project in the preservation program.

3                   “(3) DEVELOPMENT THROUGH PARTICIPATING  
4           ADMINISTRATIVE ENTITIES.—The Secretary may de-  
5           velop long-term viability plans through the use of  
6           third-party participating administrative entities, who  
7           may be a private contractor, a State housing finance  
8           agency, or a nonprofit organization.

9                   “(4) PRESERVATION DETERMINATION.—Based  
10          on the long-term viability plan for an eligible project,  
11          the Secretary shall determine whether to offer the  
12          project owner a financial restructuring plan under  
13          subsection (d) and the financial incentives to be in-  
14          cluded in any such plan offered.

15                  “(5) FINAL REVIEW AND COMMENT.—Before a  
16          determination is made under subparagraph (D) with  
17          respect to any long-term viability plan prepared by  
18          the Secretary, the Secretary shall—

19                       “(A) provide the project owner an oppor-  
20                       tunity to review the plan and discuss the plan  
21                       with the Secretary or its agent;

22                       “(B) make available to the tenants of the  
23                       project a copy of such plan and provide a period  
24                       of not less than 30 days for tenants to submit

1           comments regarding the plan to the Secretary;  
2           and

3           “(C) respond in writing to such comments.

4           “(6) FEES.—The Secretary may charge the  
5           project owner a fee for preparation of the long-term  
6           viability plan.

7           “(7) PAYMENT OF FEES.—If a long-term viabil-  
8           ity for a project is approved, the payment of such  
9           fee may be incorporated into a project owner’s finan-  
10          cial restructuring plan for the project provided by  
11          the Secretary pursuant to subsection (d).

12          “(d) FINANCIAL RESTRUCTURING PLAN; PRESERVA-  
13          TION INCENTIVES.—Based on the long-term viability plan  
14          for an eligible project, the Secretary may offer a project  
15          owner a financial restructuring plan for the project. Such  
16          a plan may include one or more of the following preserva-  
17          tion incentives:

18               “(1) Reduction or elimination of interest on the  
19               loan or loans for the project made under section  
20               514, 515, or 516.

21               “(2) Partial or full deferral of payments due  
22               under such loan or loans.

23               “(3) Forgiveness of such loan or loans.



1           “(4) Subordination of such loan or loans, sub-  
2       ject to such terms and conditions as the Secretary  
3       shall determine.

4           “(5) Reamortization of loan payments under  
5       such loan or loans over extended terms.

6           “(6) A grant from the Secretary for the project.

7           “(7) Payment of project costs associated with  
8       developing the long-term viability plan.

9           “(8) Opportunity for project owners to obtain  
10      further investment equity from third parties.

11          “(9) A direct loan or guarantee of a loan for  
12      the project, with a subsidized interest rate without  
13      regard to the value of the project.

14          “(e) LONG-TERM USE AGREEMENT.—

15           “(1) IN GENERAL.—If the owner of an eligible  
16      project agrees to the terms of a financial restruc-  
17      turing plan for the project providing preservation  
18      benefits under subsection (d), in exchange for such  
19      benefits, the Secretary and the project owner shall  
20      enter into a long-term use agreement under this sub-  
21      section for the project.

22           “(2) AGREEMENT.—A long-term use agreement  
23      for an eligible project shall include—

1           “(A) the terms of the financial restruc-  
2           turing plan for the project, including any pres-  
3           ervation incentives to be provided;

4           “(B) an agreement by the project owner—

5                 “(i) to continue the property use re-  
6                 strictions with respect to the project in ac-  
7                 cordance with this title for a period of—

8                         “(I) 30 years, or

9                         “(II) the remaining term of any  
10                        loans under this title for the project,  
11                        whichever ends later;

12                       “(ii) to comply with the long-term via-  
13                       bility plan for the project; and

14                       “(iii) to comply with the rent terms  
15                       under subsection (f) for the project;

16           “(C) provisions terminating the agreement  
17           if any material preservation incentives for the  
18           project to be provided under the agreement are  
19           no longer available and the Secretary deter-  
20           mines that such unavailability is not the fault  
21           of the owner;

22           “(D) any rent terms for the project pursu-  
23           ant to subsection (f);

24           “(E) a covenant which runs with the land;

1           “(F) a representation and warranty by the  
2           owner to provide safe, healthy, clean buildings  
3           pursuant to the Secretary’s guidelines;

4           “(G) provisions providing for rural preser-  
5           vation voucher assistance under section 542(c)  
6           for low-income households residing in the  
7           project who are eligible for such vouchers; and

8           “(H) such other terms as the Secretary de-  
9           termines are necessary to implement the pur-  
10          poses of this section.

11       “(f) RENTS UNDER LONG-TERM USE AGREE-  
12       MENT.—Rents for any eligible households residing in  
13       dwelling units in any preserved project shall comply with  
14       the following requirements:

15           “(1) MAXIMUM HOUSEHOLD CONTRIBUTION TO  
16       RENT AND UTILITIES.—The maximum household  
17       contribution to monthly rent and utilities for any eli-  
18       gible household may not exceed 30 percent of the  
19       adjusted income of the eligible household.

20           “(2) RENT ADJUSTMENTS.—The rents for eligi-  
21       ble projects may be increased or decreased only on  
22       an annual basis and only in accordance with stand-  
23       ards incorporated in such agreement.

24           “(3) LOWEST COST REQUIREMENT.—In deter-  
25       mining the terms of a restructuring plan, and the

1 type and amount of preservation benefits under such  
2 plan to approve under this section for an eligible  
3 project, the Secretary shall, to the extent prac-  
4 ticable, approve assistance that imposes the least  
5 cost to the Secretary while meeting the requirements  
6 of the long-term viability plan for the project.

7 “(g) EARNED INCOME DISREGARD FOR RESI-  
8 DENTS.—

9 “(1) IN GENERAL.—Notwithstanding any other  
10 provision of law, the amount of the contribution to-  
11 ward rent for a dwelling unit payable, by any house-  
12 hold described in paragraph (3), for occupancy in a  
13 project funded with a loan under section 514, 515,  
14 or 516 may not be increased as a result of the in-  
15 creased income due to employment during the 12-  
16 month period beginning on the date on which the  
17 employment is commenced.

18 “(2) PHASE-IN OF RENT INCREASES.—Upon  
19 the expiration of the 12-month period referred to in  
20 paragraph (1), the contribution toward rent payable  
21 by a household described in paragraph (3) may be  
22 increased due to the continued employment of the  
23 household member described in subparagraph  
24 (3)(B), except that during the 12-month period be-  
25 ginning upon such expiration the amount of the in-

crease may not be greater than 50 percent of the amount of the total increase in contribution toward rent that would be applicable but for this paragraph.

“(3) ELIGIBLE HOUSEHOLD.—A household described in this paragraph is a household that—

“(A)(i) is an eligible household who resides in an eligible project; or

“(ii) is provided rural preservation voucher assistance pursuant to section 542(c); and

“(B)(i) whose income increases as a result of employment of a member of the household who was previously unemployed for 1 or more years;

“(ii) whose earned income increases during the participation of a household member in any family self-sufficiency or other job training program; or

“(iii) who is or was, within 6 months, assisted under any State program for temporary assistance for needy families funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and whose earned income increases.

“(h) INELIGIBILITY.—

1           “(1) PROCEDURE FOR DETERMINATION.—The  
2       Secretary may determine that a project owner is in-  
3       eligible for participation in the preservation program  
4       under this section in accordance with the standards  
5       under paragraph (2).

6           “(2) STANDARDS.—The Secretary may deter-  
7       mine that a project owner is ineligible if—

8           “(A) the project owner has a history of  
9       poor management or maintenance of multi-  
10      family housing properties;

11          “(B) the project owner is in default on a  
12      loan made available under the section 514, 515,  
13      or 516 housing program;

14          “(C) the Secretary is unable to enter into  
15      a long-term use agreement for the project that  
16      is the subject of the application with the project  
17      owner within a reasonable time;

18          “(D) the project owner is suspended or  
19      debarred from participating in Federal con-  
20      tracts or programs; or

21          “(E) the Secretary has other good cause  
22      for withholding from the project owner the ben-  
23      efits made available under this section.

24          “(i) DEFINITIONS.—For purposes of this section, the  
25      following definitions shall apply:

1           “(1) ELIGIBLE HOUSEHOLD.—The term ‘eligi-  
2       ble household’ means a household that, under sec-  
3       tion 514, 515, or 516, is eligible to reside in a  
4       project funded with a loan made by the Secretary  
5       under such section.

6           “(2) ELIGIBLE PROJECT.—The term ‘eligible  
7       project’ means a housing project funded with a loan  
8       made at any time by the Secretary under section  
9       514, 515, or 516, the principal obligation of which  
10      has not been fully repaid.

11          “(3) PROJECT OWNER; OWNER.—The terms  
12      ‘project owner’ and ‘owner’ mean, with respect to an  
13      eligible project, an individual or entity, or principals  
14      thereof that own, or plan to purchase, the project.

15          “(4) PRESERVED PROJECT.—The term ‘pre-  
16      served project’ means an eligible project for which  
17      the Secretary and owner have entered into agree-  
18      ment on a financial restructuring plan for the  
19      project and into a long-term use agreement for the  
20      project, under this section.

21          “(j) ANNUAL REPORT.—The Secretary shall submit  
22      a report to the Congress annually regarding the compli-  
23      ance of owners of eligible projects participating in the  
24      preservation program under this section with the require-

1 ments of such program, which shall identify and describe  
2 any significant failures to comply.

3 “(k) AUTHORIZATION OF APPROPRIATIONS.—There  
4 are authorized to be appropriated for each of fiscal years  
5 2011 through 2015 such sums as may be necessary to  
6 carry out the preservation program under this section.”.

7 **SEC. 803. RURAL PRESERVATION AND RURAL TENANT PRO-**  
8 **TECTION VOUCHERS.**

9 Section 542 of the Housing Act of 1949 (42 U.S.C.  
10 1490r) is amended by adding at the end the following new  
11 subsections:

12 “(c) RURAL PRESERVATION ASSISTANCE.—In the  
13 case of a housing project subject to a loan made under  
14 section 514, 515, or 516 that is a preserved project (as  
15 such term is defined in section 545(i)), the Secretary shall,  
16 to the extent that amounts for assistance under this sub-  
17 section are provided in advance in appropriation Acts,  
18 make available to each eligible household (as such term  
19 is defined in section 545(i)) that is not already assisted  
20 under the rental assistance program under section 521 or  
21 the program for rental assistance under section 8 of the  
22 United States Housing Act of 1937 (42 U.S.C. 1437f),  
23 and is residing in the project upon the date that a long-  
24 term use agreement is entered into pursuant to section  
25 545(e) between the project owner and the Secretary,



1 voucher assistance under this subsection or rental assist-  
2 ance under section 521 upon such date, as follows:

3 “(1) The amount of assistance provided shall be  
4 sufficient to allow such household to remain in the  
5 project after it is preserved.

6 “(2) The percentage of adjusted income paid by  
7 the eligible household for rent and utilities for the  
8 assisted dwelling shall not exceed 30 percent of ad-  
9 justed income of the eligible household.

10 “(3) The assistance shall be available to the eli-  
11 gible household only during the period in which the  
12 eligible household resides in the preserved project  
13 and the long-term use agreement remains in effect.

14 “(4) Upon termination of the participation of  
15 the eligible household in the assistance program, the  
16 assistance shall remain attached to the preserved  
17 project and shall be available for use by another eli-  
18 gible household residing in the preserved project.

19 “(d) RURAL TENANT PROTECTION VOUCHERS FOR  
20 PREPAYMENTS AND FORECLOSURES.—

21 “(1) IN GENERAL.—In the case of a housing  
22 project subject to a loan made under section 514,  
23 515, or 516 that is prepaid or foreclosed upon, the  
24 Secretary shall, to the extent that amounts for as-  
25 sistance under this subsection are provided in ad-

1 vance in appropriation Acts, make available to each  
2 eligible household (as such term is defined in section  
3 545(i)) that is not assisted under the rental assist-  
4 ance program under section 521 or the program for  
5 rental assistance under section 8 of the United  
6 States Housing Act of 1937 (42 U.S.C. 1437f), and  
7 is residing in a dwelling unit in the project upon the  
8 date that the Secretary approves the prepayment or  
9 submits notice of foreclosure to the project owner, as  
10 applicable, voucher assistance upon such date, as fol-  
11 lows:

12 “(A) RELOCATION VOUCHERS.—In the  
13 case of any such eligible household who must  
14 relocate from a project for which the loan is  
15 being prepaid or foreclosed upon, voucher as-  
16 sistance under this subsection shall be subject  
17 to the terms of section 8(o) of the United  
18 States Housing Act of 1937 (42 U.S.C.  
19 1437(o)), except that—

20 “(i) the percentage of adjusted income  
21 paid by the eligible household for rent and  
22 utilities for the assisted dwelling unit shall  
23 not at any time exceed 30 percent of the  
24 adjusted income of the eligible household;  
25 and

1           “(ii) a voucher provided pursuant to  
2           this subparagraph shall be subject to the  
3           terms of section 8(r) of such Act (relating  
4           to portability), except that if an eligible  
5           household uses the voucher to move to a  
6           community other than the community in  
7           which the project from which the family re-  
8           located pursuant to such prepayment or  
9           foreclosure is located, upon termination of  
10          the participation of such eligible family in  
11          the voucher program, the voucher shall be  
12          returned for use in the community in  
13          which such project is located.

14          “(B) ENHANCED VOUCHERS.—In the case  
15          of any such eligible household who remains in  
16          a project for which the loan is prepaid or fore-  
17          closed upon, voucher assistance under this sub-  
18          section shall be subject to the terms of section  
19          8(t) of the United State Housing Act of 1937  
20          (42 U.S.C. 1437f(t)), except that—

21               “(i) the percentage of adjusted income  
22               paid by the eligible household for rent and  
23               utilities for the assisted dwelling unit shall  
24               not at any time exceed 30 percent of the  
25               adjusted income of the eligible household;

1           “(ii) the owner of the project may not  
2           refuse to lease, to an eligible household for  
3           whom voucher assistance under this sub-  
4           paragraph is made available, any available  
5           appropriately sized rental dwelling unit in  
6           the project;

7           “(iii) voucher assistance under this  
8           subparagraph may be used only for dwell-  
9           ing units in housing that is decent, safe,  
10          and sanitary; and

11          “(iv) upon termination of participa-  
12          tion of such eligible family in the enhanced  
13          voucher program, the voucher shall convert  
14          to a relocation voucher under subpara-  
15          graph (A) of this paragraph, and shall be  
16          available with respect to such project only  
17          to provide assistance in accordance with  
18          the provisions of such subparagraph.

19          “(e) ADMINISTRATION.—The Secretary may contract  
20          with a public housing agency or a private or nonprofit or-  
21          ganization to administer vouchers authorized under sub-  
22          sections (c) and (d).

23          “(f) RENEWAL.—Vouchers under subsections (c) and  
24          (d) shall be renewed annually, subject to the availability  
25          of appropriations for such renewal.

1       “(g) USE OF SAVINGS.—Notwithstanding any other  
2 provision of law, any amounts made available for voucher  
3 assistance under subsections (c) and (d) that remain un-  
4 used because of increases in the incomes of household as-  
5 sisted under such vouchers shall be available to the Sec-  
6 retary for eligible activities under this Act.

7       “(h) APPLICABILITY OF SECTION 8 PROGRAM.—Ex-  
8 cept as specifically provided otherwise in this section, to  
9 the maximum extent practicable, the Secretary shall ad-  
10 minister voucher assistance under subsections (c) and (d)  
11 in accordance with, but not subject to, regulations and ad-  
12 ministrative guidance for housing vouchers administered  
13 by the Secretary of Housing and Urban Development  
14 under section 8(o) of such Act.

15       “(i) AUTHORIZATION OF APPROPRIATIONS.—There is  
16 authorized to be appropriated for voucher assistance under  
17 subsections (c) and (d) such sums as may be necessary  
18 for each of fiscal years 2011 through 2015.”.

19 **SEC. 804. TENANT PARTICIPATION.**

20       Title V of the Housing Act of 1949 is amended by  
21 inserting after section 517 (42 U.S.C. 1487) the following  
22 new section:

23 **“SEC. 518. TENANT PARTICIPATION.**

24       “The Secretary shall extend to tenants in multifamily  
25 housing projects financed under sections 514, 515, 516

1 and 538 all of the rights that are specified in section 202  
2 of the Housing and Community Development Amend-  
3 ments of 1978 (12 U.S.C. 1715z–1b) with respect to ten-  
4 ants of multifamily housing projects (as such term is de-  
5 fined in subsection (a) of such section).”.

6 **SEC. 805. PRIORITY FOR FINANCING.**

7 Subsection (j) of section 515 of the Housing Act of  
8 1949 (42 U.S.C. 1485(j)) is amended—

9 (1) by inserting “(1)” before “For”; and

10 (2) by adding at the end the following new  
11 paragraph:

12 “(2) The Secretary may give priority, in entering into  
13 contracts under this section involving financing for new  
14 construction of a project, for projects located in eligible  
15 rural areas having a need for affordable low-income rental  
16 housing due to prepayment of loans made or insured  
17 under this section.”.

18 **SEC. 806. CONFORMING AMENDMENT.**

19 Section 537(b)(1) of the Housing Act of 1949 (42  
20 U.S.C. 1490p–1(b)(1)) is amended by inserting before the  
21 semicolon the following: “and to administer the preserva-  
22 tion program under section 545”.

23 **SEC. 807. REGULATIONS.**

24 The Secretary of Agriculture shall issue proposed  
25 regulations to carry out the amendments made by this title

1 not later than the expiration of the 90-day period begin-  
2 ning upon the date of the enactment of this Act, and shall  
3 issue final regulations to carry out the amendments made  
4 by this title not later than the expiration of the 180-day  
5 period beginning upon such date of enactment.

